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LEGISLATIVE HISTORY  
Public Law 91-563  
H.R. 12979

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## INDEX AND SUMMARY OF H.R. 12979

- July 21, 1969 Rep. Henderson and others, introduced H.R. 12979 which was referred to Post Office and Civil Service Committee. Print of bill as introduced.
- July 24, 1969 House committee voted to report H.R. 12979.
- Aug. 5, 1969 House committee reported without amendment, H.R. 12979. H. Rept. 91-414. Print of report.
- Sept. 15, 1969 House passed H.R. 12979 as reported.
- Nov. 24, 1969 Senate committee reported H.R. 12979. S. Rept. 91-1371. Print of bill and report.
- Dec. 1, 1970 Senate passed H.R. 12979 with amendments.
- Dec. 9, 1970 House agreed to Senate amendments to H.R. 12979.
- Dec. 19, 1970 Approved: P.L. 91-563

THE HISTORY OF THE

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# H. R. 12979

AN ACT

TO

Amend the Act of March 3, 1879, entitled "An Act to provide for the payment of the principal and interest on the public debt of the United States, and for the redemption of the same," and for other purposes.

## A BILL

For the purpose of amending the Act of March 3, 1879, entitled "An Act to provide for the payment of the principal and interest on the public debt of the United States, and for the redemption of the same," and for other purposes.

Enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

Approved March 3, 1879.





91ST CONGRESS  
1ST SESSION

# H. R. 12979

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## IN THE HOUSE OF REPRESENTATIVES

JULY 21, 1969

Mr. HENDERSON (for himself, Mr. NIX, Mr. WHITE, Mr. HAMILTON, Mr. BRASCO, Mr. GROSS, Mr. DERWINSKI, and Mr. LUKENS) introduced the following bill; which was referred to the Committee on Post Office and Civil Service

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## A BILL

To amend title 5, United States Code, to revise, clarify, and extend the provisions relating to court leave for employees of the United States and the District of Columbia.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       That (a) section 6322 of title 5, United States Code, is  
4       amended to read:

5       “§ 6322. Leave for jury or witness service; official duty  
6               status for certain witness service

7       “(a) An employee as defined by section 2105 of this  
8       title or an individual employed by the government of the  
9       District of Columbia is entitled to leave, without loss of, or  
10      reduction in, pay, leave to which he otherwise is entitled,

1 credit for time or service, or performance of efficiency rating,  
2 during a period of absence with respect to which he is sum-  
3 moned, in connection with a judicial proceeding, by a court  
4 or authority responsible for the conduct of that proceeding, to  
5 serve—

6 “ (1) as a juror; or

7 “ (2) as a witness on behalf of a party other than  
8 the United States, the District of Columbia, or a pri-  
9 vate party;

10 in the District of Columbia, a State, territory, or possession  
11 of the United States including the Commonwealth of Puerto  
12 Rico, the Canal Zone, or the Trust Territory of the Pacific  
13 Islands. For the purpose of this subsection, ‘judicial proceed-  
14 ing’ means any action, suit, or other judicial proceeding, in-  
15 cluding any condemnation, preliminary, informational, or  
16 other proceeding of a judicial nature, but does not include an  
17 administrative proceeding.

18 “ (b) An employee as defined by section 2105 of this  
19 title or an individual employed by the government of the  
20 District of Columbia is performing official duty during the  
21 period with respect to which he is summoned, or assigned  
22 by his agency, to—

23 “ (1) testify or produce official records on behalf of  
24 the United States or the District of Columbia; or

25 “ (2) testify in his official capacity or produce offi-

cial records on behalf of a party other than the United States or the District of Columbia.

“(c) The Civil Service Commission may prescribe regulations for the administration of this section.”

(b) Item 6322 in the analysis of chapter 63 of title 5, United States Code, is amended to read:

“6322. Leave for jury or witness service; official duty status for certain witness service.”.

SEC. 2. (a) Section 5515 of title 5, United States Code, is amended to read:

**§ 5515. Crediting amounts received for jury or witness service**

“An amount received by an employee as defined by section 2105 of this title or an individual employed by the government of the District of Columbia for service as a juror or witness during a period for which he is entitled to leave under section 6322 (a) of this title, or is performing official duty under section 6322 (b) of this title, shall be credited against pay payable to him by the United States or the District of Columbia with respect to that period.”

(b) Item 5515 in the analysis of chapter 55 of title 5, United States Code, is amended to read:

“5515. Crediting amounts received for jury or witness service.”.

SEC. 3. (a) Section 5537 of title 5, United States Code, is amended to read:

1   **“§ 5537. Fees for jury and witness service**

2       “(a) An employee as defined by section 2105 of this  
3 title or an individual employed by the government of the  
4 District of Columbia may not receive fees for service—

5       “(1) as a juror in a court of the United States or  
6 the District of Columbia; or

7       “(2) as a witness on behalf of the United States  
8 or the District of Columbia.

9       “(b) An official of a court of the United States or the  
10 District of Columbia may not receive witness fees for at-  
11 tendance before a court, commissioner, or magistrate where  
12 he is officiating.

13       “(c) For the purpose of this section, ‘court of the  
14 United States’ has the meaning given it by section 451 of  
15 title 28 and includes the United States District Court for  
16 the District of the Canal Zone, the District Court of Gaum,  
17 and the District Court of the Virgin Islands.”

18       (b) Item 5537 in the analysis of chapter 55 of title 5,  
19 United States Code, is amended to read:

“5537. Fees for jury and witness service.”.

20       SEC. 4. (a) Chapter 57 of title 5, United States Code,  
21 is amended by inserting at the end thereof the following new  
22 subchapter:



1. "SUBCHAPTER IV—MISCELLANEOUS PROVISIONS"

2 "§ 5751. Travel expenses of witnesses"

3 "(a) Under such regulations as the Attorney General  
4 may prescribe, an employee as defined by section 2105 of  
5 this title summoned, or assigned by his agency, to testify or  
6 produce official records on behalf of the United States is  
7 entitled to travel expenses under subchapter I of this chapter.  
8 If the case involves the activity in connection with which  
9 he is employed, the travel expenses are paid from the appro-  
10 priation otherwise available for travel expenses of the em-  
11 ployee under proper certification by a certifying official of  
12 the agency concerned. If the case does not involve its ac-  
13 tivity, the employing agency may advance or pay the travel  
14 expenses of the employee, and later obtain reimbursement  
15 from the agency properly chargeable with the travel ex-  
16 penses.

17 "(b) An employee as defined by section 2105 of this  
18 title summoned, or assigned by his agency, to testify in his  
19 official capacity or produce official records, on behalf of a  
20 party other than the United States, is entitled to travel  
21 expenses under subchapter I of this chapter, except to the  
22 extent that travel expenses are paid to the employee for his

1 appearance by the court, authority, or party which caused  
2 him to be summoned.”

3 (b) The analysis of chapter 57 of title 5, United States  
4 Code, is amended by inserting at the end thereof:

“SUBCHAPTER IV—MISCELLANEOUS PROVISIONS

“5751. Travel expenses of witnesses.”.

5 SEC. 5. (a) Section 1823 of title 28, United States Code,  
6 is repealed.

7 (b) The analysis of chapter 119 of title 28, United  
8 States Code, is amended by striking out item 1823.

A BILL

HL 15313

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**A BILL**

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To amend title 5, United States Code, to revise, clarify, and extend the provisions relating to court leave for employees of the United States and the District of Columbia.

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By Mr. HENDERSON, Mr. NIX, Mr. WHITE, Mr.  
HAMILTON, Mr. BRASCO, Mr. GROSS, Mr. DER-  
WINSKI, and Mr. LUKENS

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JULY 21, 1969

Referred to the Committee on Post Office and Civil  
Service



The first part of the paper is devoted to a general discussion of the problem. It is shown that the problem is well-posed in the sense of Hadamard. The second part is devoted to the construction of the solution. The third part is devoted to the numerical solution of the problem. The fourth part is devoted to the application of the results to the problem of the motion of a rigid body.

In the first part of the paper, we consider the problem of the motion of a rigid body. It is shown that the problem is well-posed in the sense of Hadamard. The second part is devoted to the construction of the solution. The third part is devoted to the numerical solution of the problem. The fourth part is devoted to the application of the results to the problem of the motion of a rigid body.

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July 24, 1969

12. CENSUS; PERSONNEL. The Post Office and Civil Service Committee voted to report (but did not actually report) H. R. 12884, to assure confidentiality of information furnished in response to questionnaires, inquiries, and other requests of the Bureau of the Census, and H. R. 12979, to grant court leave to employees of the U. S. and D. C. when called as witnesses in certain judicial proceedings on behalf of State and local governments. p. D670

The "Daily Digest" states that the Post Office and Civil Service Committee "referred back to the subcommittee...for further consideration H. R. 13000, to implement the Federal employee pay comparability system, to establish a Federal Employee Salary Commission and a Board of Arbitration, with instructions to report back to the full committee on August 7." p. D670

13. APPROPRIATIONS. Passed 366-31, with amendment H. R. 12964, the State, Justice, and Commerce, the Judiciary and related agencies appropriation bill, 1970. pp. H6268-84, H6321

The Appropriations Committee reported H. R. 13111, the Depts. of Labor, HEW, and related agencies appropriation bill, 1970 (H. Rept. 91-391). p. H6327

14. BUDGET; INFLATION. Rep. Meskill agreed with the administration's attempts to "control inflation and balance the budget" but criticized the President's budget request for "\$807,000 for the controversial Dickey-Lincoln power project." Rep. Udall inserted the report he sent his constituents on "the problem of inflation." pp. H6309-15

15. POPULATION. Rep. Brown, Calif., commended the administration's proposed population program. pp. H6323-26

16. FOREIGN AID. Received from State a proposed amendment to the proposed Foreign Assistance Act of 1969; to Foreign Affairs Committee. p. H6327

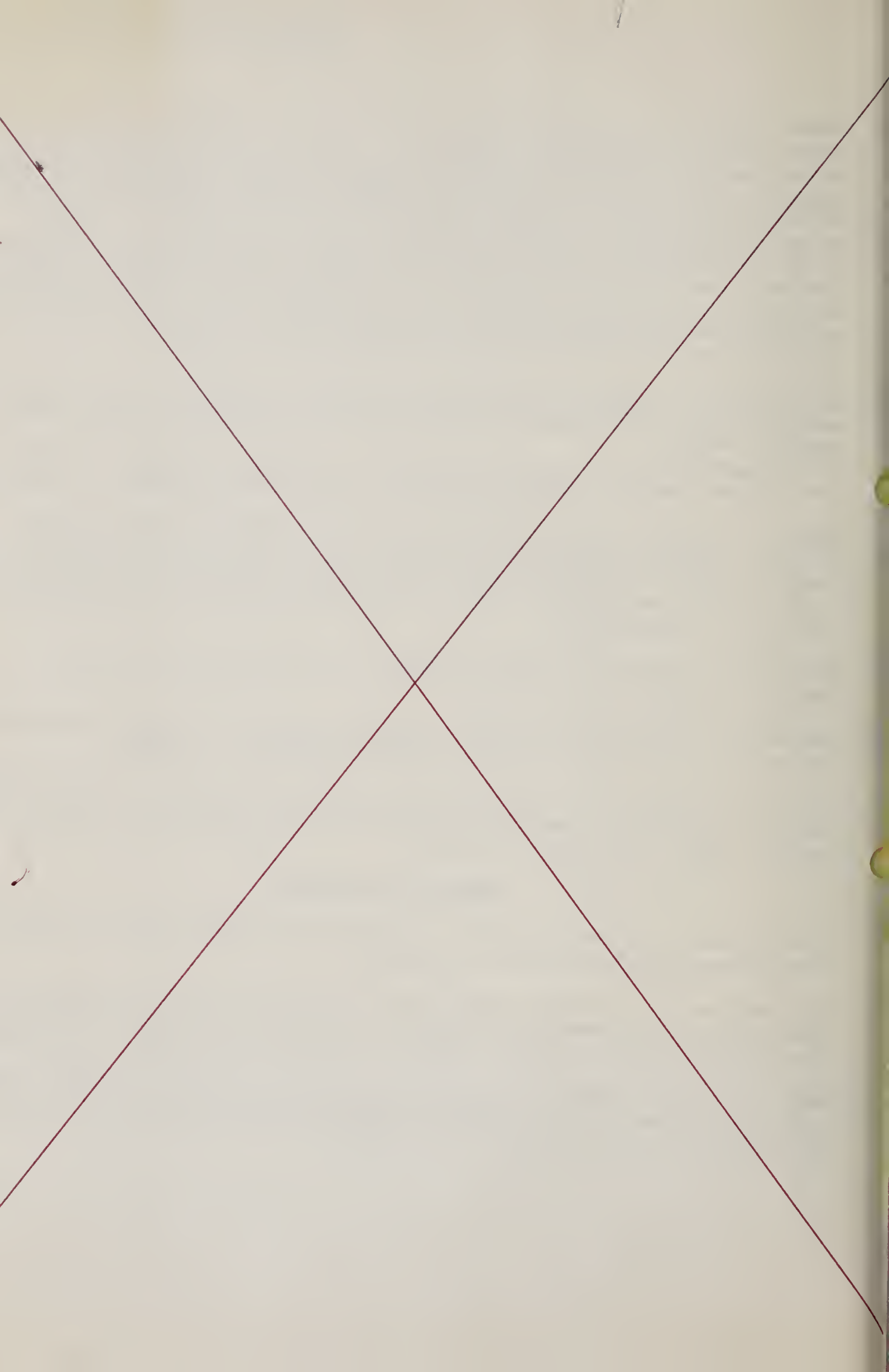
17. LEGISLATIVE PROGRAM. The "Daily Digest" states that on Mon., the House will consider the surtax extension bill and the bill to provide for a separate Federal credit union agency. p. D669

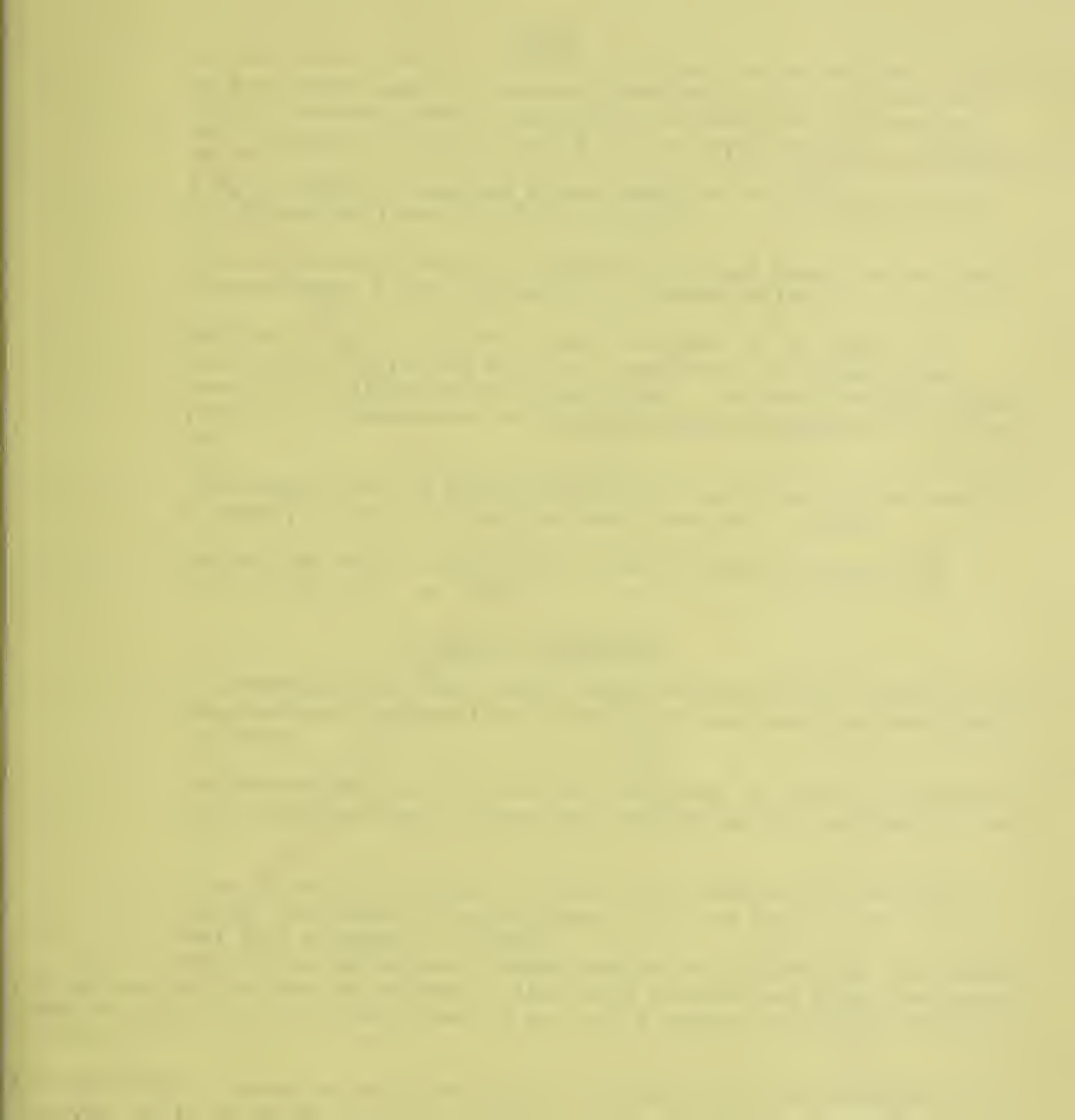
#### EXTENSION OF REMARKS

18. FIRE RESEARCH. Rep. Daniels, N. J., inserted testimony in behalf of funding the Fire Research and Safety Act. pp. E6255-6

19. FARM PROGRAM. Rep. Sebelius stated that the American farmer "is being driven into poverty", and inserted an article, "Underestimating the Farm Program and Its Effect May Lead to Further Upheaval In Economic Structure." pp. E6257-8

20. FOREIGN AID; LAND REFORM. Rep. Obey stated that "I applaud our efforts at land reform in Southeast Asia. I think, however, we should precede our efforts there by setting an example at home." pp. E6264-5







Aug. 5, 1969

10. PESTICIDES. Sen. Nelson inserted a summary on the DDT "problem." pp. S9182-85
11. SURTAX. Sen. Moss explained his reason for voting against the passage of the 6-month extension of the surtax. pp. S9193-95

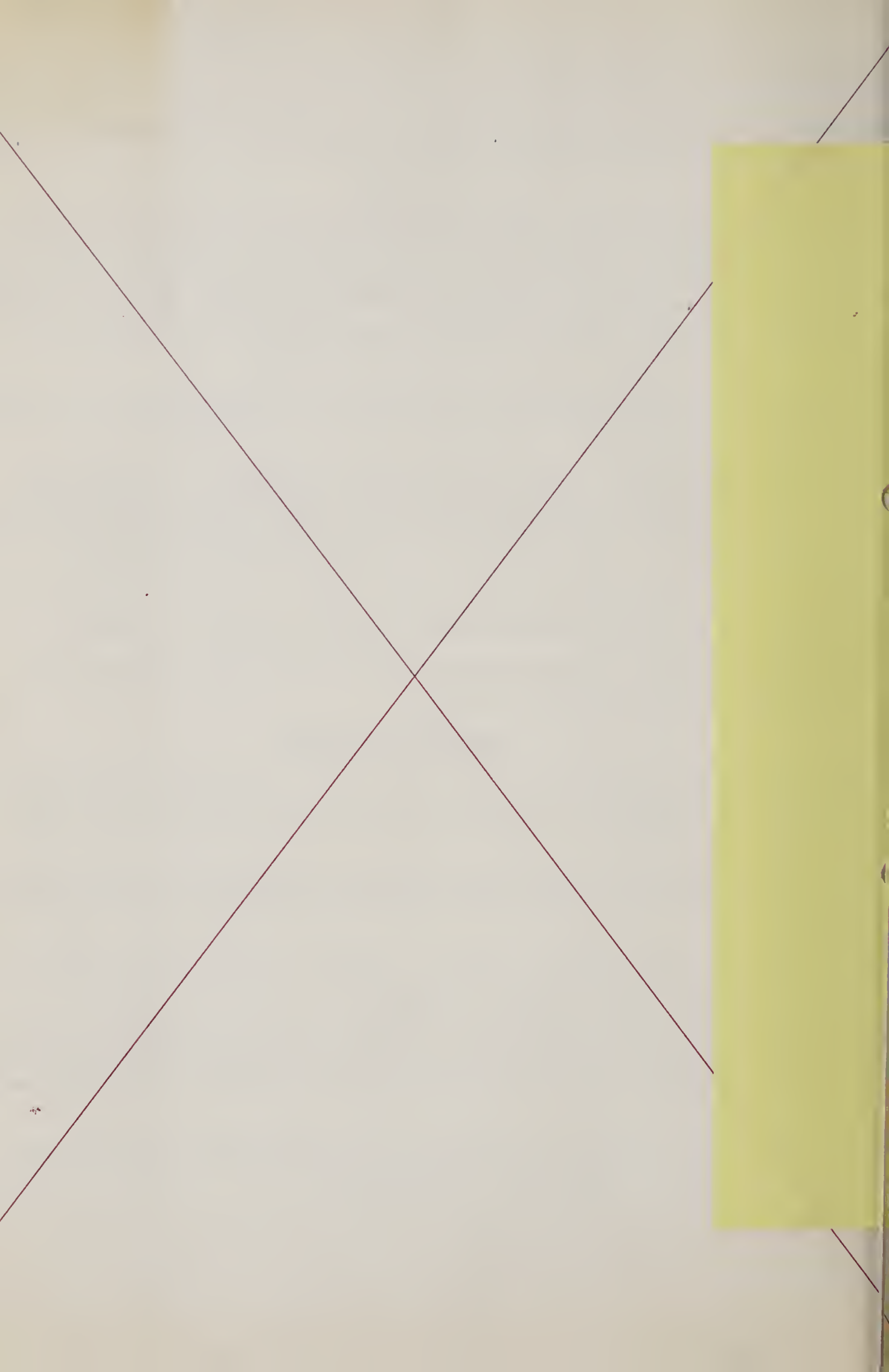
HOUSE

12. PERSONNEL. The Post Office and Civil Service Committee reported without amendment H. R. 12979, to revise, clarify, and extend the provisions relating to court leave for employees of the U. S. and D. C. (H. Rept. 91-414). p. H6956
13. TAXATION. The Rules Committee reported a resolution for the consideration of H. R. 13270, to reform the income tax laws. p. H6956
14. COFFEE. Both Houses received from the President the annual report of the operations of the International Coffee Agreement. pp. H6884, S9196
- MILITARY CONSTRUCTION. Passed, 375-30, without amendment H. R. 13018, the military construction authorization bill (pp. S6885-926). A motion by Rep. Whalen to recommit the bill was rejected (p. H6926). This bill includes authorization for payments on indebtedness to Commodity Credit Corporation for defense family housing.
16. PEACE CORPS. The Foreign Affairs Committee voted to report (but did not actually report) H. R. 11039, to amend further the Peace Corps Act. p. D724
17. LEGISLATIVE PROGRAM. The "Daily Digest" states that on Wed. the House will consider the tax reform bill. p. D723

EXTENSION OF REMARKS

18. SMALL BUSINESS; APPROPRIATIONS. Rep. Evins, Tenn., objected to the administration's "cutback on congressionally appropriated funds" which has restricted small business loans. p. E6626
19. EMPLOYMENT. Rep. Fannin inserted two articles concerning the Federal Government's role in enforcing equal employment opportunity regulations and legislation. pp. E6626-8
20. FARM PROGRAM. Sen. Fulbright inserted a letter to the editor which "discusses in a thoughtful way the dilemma faced by farmers all over the country and the need for Federal farm programs." p. E6630  
Rep. Scherle inserted an article, "A New View of the Farmer", and stated that "it points out that the era of heavy criticism of the American farmer has passed with the realization that the farmer is not just a farmer, but a food producer." p. E6632
21. REORGANIZATION. Speech in the House by Rep. Sisk describing the provisions of proposed bills to reorganize the Congress, and plans of the subcommittee in preparing a report on the bills. pp. E6640-6







## COURT LEAVE FOR EMPLOYEES OF THE UNITED STATES AND THE DISTRICT OF COLUMBIA

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AUGUST 5, 1969.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. HENDERSON, from the Committee on Post Office and Civil Service, submitted the following

### REPORT

[To accompany H.R. 12979]

The Committee on Post Office and Civil Service, to whom was referred the bill (H.R. 12979) to amend title 5, United States Code, to revise, clarify, and extend the provisions relating to court leave for employees of the United States and the District of Columbia, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

#### PURPOSE

The major purpose of this legislation is to remove the financial hardship now imposed on employees of the United States and of the District of Columbia in certain instances while serving as a witness, or producing official records in an official capacity, in connection with certain proceedings, in the following respects:

By extending existing authority relating to court leave for an employee of the United States or of the District of Columbia, to include periods when appearing as a witness in a judicial proceeding on behalf of a State or local government.

By extending existing authority relating to an official duty status for an employee of the United States or of the District of Columbia when summoned, or assigned by his agency, to testify or produce official records on behalf of the United States or the District of Columbia, to include periods when summoned, or assigned by his agency, to testify in his official capacity or to produce official records on behalf of a party other than the United States or the District of Columbia.

By extending existing authority relating to travel expenses for an employee of the United States when summoned, or assigned by his agency, to testify or to produce official records on behalf of the United States, to include situations when summoned, or assigned by his agency, to testify in his official capacity or to produce official records on behalf of a party other than the United States.

## STATEMENT

### BACKGROUND

The Honorable David N. Henderson introduced H.R. 10247 on April 17, 1969, to extend court leave for employees of the United States and the District of Columbia to include absences not only for jury service, but also when called as witnesses in certain judicial proceedings on behalf of State and local governments. The Subcommittee on Manpower and Civil Service held public hearings and took testimony from representatives of five major employee organizations and the General Counsel of the Civil Service Commission.

All of the testimony was favorable to the proposed legislation, but developed the necessity for clarification and expansion of the coverage. Accordingly, all members of the subcommittee cosponsored a successor bill, H.R. 12979, which was ordered reported unanimously without amendment.

The enactment of this legislation is recommended by the Civil Service Commission. The Commission advised the committee by letter dated July 31, 1969, that the bill was a good step forward in correcting some longstanding inequities. The committee knows of no opposition to this legislation.

H.R. 12979 as reported will—

(1) Extend the court leave provisions, now available for an employee of the United States or of the District of Columbia while serving as a juror, to include a period of absence when the employee is summoned to appear in a judicial proceeding as a witness on behalf of a party other than the United States, other than the District of Columbia, or other than a private party, such as a State or a local government;

(2) Provide that duty by an employee of the United States or of the District of Columbia is official duty during periods with respect to which the employee is summoned, or assigned by his agency, to testify or produce official records on behalf of the United States or of the District of Columbia (which, under existing law, is treated as court leave) or testify in his official capacity or produce official records on behalf of any party other than the United States or the District of Columbia;

(3) Require that an amount receive by the employee for service as a juror or a witness shall be credited against pay otherwise due the employee; and

(4) Transfer the existing authority relating to travel expenses for an employee of the United States when testifying or producing official records on behalf of the United States, from title 28 of the United States Code to title 5 of the United States Code, and amplify such provisions so as to authorize the payment of travel expenses to such an employee of the United States when sum-

moned on behalf of a party other than the United States to testify in his official capacity or to produce official records, except to the extent that travel expenses are paid to the employee by such other party.

The court leave provisions (sec. 6322(a)) will apply in connection with judicial proceedings by a court or authority responsible for the conduct of such proceedings in the District of Columbia, a State, territory, or possession of the United States, including the Commonwealth of Puerto Rico, the Canal Zone, or the Trust Territory of the Pacific Islands. The judicial proceedings include any action or suit, including condemnation, preliminary, informational, or other proceeding of a judicial nature, but does not include an administrative proceeding.

The new official duty status provisions (sec. 6322(b)(2)) and the new travel expense provisions (sec. 5751(b)) are not limited to judicial proceedings but apply to any proceedings with respect to which the employee is summoned, or assigned by his agency, to testify in his official capacity or produce official records.

### COURT LEAVE

Court leave is authorized under existing law for an employee of the United States or of the District of Columbia for jury duty (5 U.S.C. 6322) or for attending court in a nonofficial capacity as a witness on behalf of the United States or the government of the District of Columbia (28 U.S.C. 1823).

The court may be a State, Federal, or District of Columbia court, and municipal courts are considered as State courts for purposes of these laws.

When an employee appears as a witness for the Government in a nonofficial capacity, he is carried on court leave and paid his regular salary during the time he is absent as a witness (38 Comp. Gen. 307, 310).

When an employee is called as a court witness in his official capacity, whether on behalf of the Government or a private party, he is in an official duty status and entitled to his regular compensation without regard to entitlement of court leave (38 Comp. Gen. 142).

When an employee's appearance in court as a witness is not on behalf of the United States or the government of the District of Columbia, and not in his official capacity, his absence from duty must be charged as either annual leave or as leave without pay (27 Comp. Gen. 83).

The present restrictions against granting of court leave while serving as a witness on behalf of a State or local government have caused hardships to a number of employees. For example, one Federal employee lost 2 days' work when he was subpoenaed by a State attorney general as a witness to a highway accident. In another instance, a Federal employee was required to take 3 days of annual leave to serve as a witness for a county in a robbery case. In still another case, a Federal employee lost an aggregate of 18 days' annual leave when he was subpoenaed as a State witness in a murder trial. There was also an instance where a Federal employee who, after observing a hit-and-run accident, pursued the offender, and was later required to use his annual leave when called as a witness for the State.



There are also a number of employee hardship cases in the non-criminal area wherein individuals are called as witnesses by a governmental body in tax suits, condemnation proceedings, and eminent domain actions.

In accordance with existing law, employees of the United States and of the District of Columbia, when appearing on behalf of State or local governments, are penalized through either loss of pay or annual leave. Since it is to their financial detriment, such employees may be understandably reluctant to step forward as witnesses to criminal acts.

In these days of deep concern over crime and crime control, employees should not be penalized for performing their civic duty. The Federal Government should be leading the way in this area.

The General Counsel of the Civil Service Commission testified that in a 1963 survey, the Bureau of Labor Statistics found that over 60 percent of the industries included in the survey granted court leave to their employees.

This legislation will alleviate the hardship for such employees when they are serving as a witness on behalf of a State or local government.

The legislation also provides (5 U.S.C. 6322(b)) that an employee of the United States or of the District of Columbia "is performing official duty" during a period with respect to which he is summoned, or assigned by his agency, to (1) testify or produce official records on behalf of the United States or the District of Columbia, or (2) testify in his official capacity or produce official records on behalf of a party other than the United States or the District of Columbia.

#### TRAVEL EXPENSES OF GOVERNMENT WITNESSES

There are also restrictions on the payment of travel expenses to employees of the United States when summoned as witnesses. Existing law (28 U.S.C. 1823(a)) authorizes payment of travel expenses when employees are summoned as witnesses on behalf of the United States. It does not authorize payment of travel expenses of employees summoned or assigned by their agencies, other than on behalf of the United States, to testify in their official capacity or to produce official records.

The Comptroller General has ruled that, since it is not a function of the Government to furnish witnesses or official records subpoenaed by private litigants, appropriated funds cannot be used to pay the travel expenses of employees of the United States who perform such functions, even though it is clear that the employees perform those functions as a part of their official duties.

The classic example of this inequity is the U.S. Weather Bureau employee who is called upon as a witness, other than on behalf of the United States, to produce official weather records. Under existing law, this employee cannot be paid from appropriated funds for any travel expenses which he might incur.

This legislation transfers the existing authority from title 28 to title 5 and extends the authority to pay travel expenses for witnesses to include cases when the employee is summoned or assigned by his agency to testify in his official capacity or to produce official records on behalf of a party other than the United States.

## EXPLANATION OF THE BILL BY SECTIONS

Subsection (a) of the first section of the bill amends section 6322 of title 5, United States Code, which presently authorizes court leave for employees of the United States and of the District of Columbia during a period of absence for service as a juror in a State court or in a court of the United States.

As amended by this bill, section 6322(a) will continue to authorize court leave for jury duty in courts of the United States and State courts, but the amendment will include jury duty in courts in the District of Columbia, and in a territory or possession of the United States, including the Commonwealth of Puerto Rico, the Canal Zone, or the Trust Territory of the Pacific Islands.

In addition, section 6322(a) will authorize court leave for employees of the United States and of the District of Columbia when summoned, in connection with a judicial proceeding, by the court or the authority responsible for the conduct of the proceeding as a witness on behalf of a party other than the United States, the District of Columbia, or a private party.

The subsection defines judicial proceeding to mean any action, suit, or other judicial proceeding, including any condemnation, preliminary, informational, or other proceeding of a judicial nature. The term does not include an administrative proceeding. This is a broad definition of judicial proceeding, and it is the intention of the committee that it be construed liberally. Insofar as witness leave is concerned, all stages (preliminary, hearing, inquest, trial, or deposition taking) of the proceeding would be covered. Included within the definition are condemnation proceedings as well as preliminary, informational, and other proceedings of a judicial nature. Examples of the latter would include hearings and conferences before a committing court, magistrate, or commission, grand jury proceedings, and coroners' inquests. It would also include such informational proceedings as hearings and conferences conducted by a prosecuting attorney for the purpose of determining whether an information or charge should be made in a particular case.

It should be emphasized that an employee would be entitled to witness leave only if he is summoned by the court or authority responsible for the conduct of the proceeding. The employee would not be entitled to leave if he just volunteered; he must be summoned. In view of the precise and technical meaning that attaches to the word "subpena," that word has not been used in either this section or the other sections of the bill. Rather, the word "summoned" is used. It is contemplated that the court or authority responsible for the conduct of the proceeding could summon an employee by means of other than a subpena. What is intended is that the summons be an official request, invitation, or call, evidenced by an official writing.

Both jury leave under subsection (a)(1) of section 6322 and witness leave under subsection (a)(2) would be without loss of, or reduction in, pay, leave to which he is otherwise entitled, credit for time or service, or performance or efficiency rating.

Subsection (b) of the amended section 6322 provides that employees of the United States and the District of Columbia who are summoned, or assigned by their agencies, to (1) testify or produce official records on behalf of the United States or the District of Columbia, or (2)



testify in their official capacity or produce official records on behalf of other than the United States or the District of Columbia, are performing official duty. This reflects existing law (28 U.S.C. 1823) and rulings of the Comptroller General when the employees are acting on behalf of the United States or the District of Columbia, and extends application to include situations when acting on behalf of a party other than the United States or the District of Columbia.

Subsection (c) of the amended section 6322 authorizes the Civil Service Commission to prescribe regulations for the administration of the section.

Subsection (b) of the first section of the bill makes a corresponding change in item 6322 in the analysis of chapter 63 of title 5, United States Code.

Section 2(a) of the bill amends section 5515 of title 5, United States Code, which presently provides for crediting against pay, amounts received by employees of the United States and the District of Columbia for jury service in State courts. Under the amendment of section 5515, amounts received for jury or witness service during a period for which the employee is entitled to court leave under section 6322(a) of title 5, or is performing official duty referred to in section 6322(b) of title 5, would be credited against his pay.

Section 2(b) makes a corresponding change in item 5515 in the analysis of chapter 55 of title 5.

Section 3(a) of the bill amends section 5537 of title 5, United States Code, which currently provides that employees of the United States and the District of Columbia may not receive fees for service as a juror in a court of the United States.

Under the amendment of section 5537, such prohibition is retained in subsection (a)(1). Reference to service as a juror in a court of the District of Columbia is added for clarity and to reflect past interpretations that the courts of the United States include, for the purpose of this section, courts of the District of Columbia.

Subsection (a)(2) of section 5537 prohibits employees of the United States and the District of Columbia from receiving a fee for witness service in a judicial proceeding on behalf of the United States or the District of Columbia. This later prohibition, now appearing in 28 U.S.C. 1823, is a corollary of the provision included by this bill in 5 U.S.C. 6322(b)(1) that an employee performing this type of service is performing official duty.

Subsection (b) of the amended section 5537 restates provisions currently set forth in 28 U.S.C. 1823(c), and includes officials of courts of the United States and of the District of Columbia within the purview thereof.

Subsection (c) of the amended section 5537 provides a definition of "court of the United States" for the purpose of this section.

Subsection 3(b) makes a corresponding change in item 5537 in the analysis of chapter 55 of title 5.

Section 1823 of title 28 is repealed by section 5 of the bill.

Section 4(a) of the bill amends chapter 57 (relating to travel and transportation) of title 5, United States Code, by inserting a new section 5751 captioned "Travel expenses of witnesses" in a new subchapter IV.

Subsection (a) of the new section 5751 restates those provisions of 28 U.S.C. 1823(a) which authorize payment of travel expenses to

employees of the United States who appear to testify or produce official records on behalf of the United States.

Subsection (b) of the new section 5751 authorizes payment of travel expenses to employees of the United States who are summoned, or assigned by their agency, to testify in their official capacity, or produce official records, on behalf of a party other than the United States. Travel expenses paid to the employee either by the court, authority, or party for his appearance would be deducted from the travel expenses authorized by this subsection.

Section 5 repeals 28 U.S.C. 1823. As noted above, the provisions of 28 U.S.C. 1823 have been included in the appropriate sections of title 5, United States Code, by the amendments made by this bill.

### COST

There is no basis on which to estimate the cost of this legislation since records are not maintained as to the amount of annual leave or without pay taken by employees appearing as witnesses. However, the number of such employees appearing as witnesses in judicial proceedings on behalf of State or local governments is not considered to be large. Additionally, the number of employees summoned, or assigned by their agency, to testify in their official capacity or produce official records, on behalf of a party other than the United States, and who under the proposed legislation would be paid travel expenses, is considered to be small.

### AGENCY RECOMMENDATIONS

The report of the Civil Service Commission dated July 31, 1969, on H.R. 12979, is set forth below.

U.S. CIVIL SERVICE COMMISSION,  
*Washington, D.C., July 31, 1969.*

HON. THADDEUS J. DULSKI,  
*Chairman, Committee on Post Office and Civil Service,  
House of Representatives.*

DEAR MR. CHAIRMAN: This is in reply to your request for the views of the Civil Service Commission on H.R. 12979, a bill to amend title 5, United States Code, to revise, clarify, and extend the provisions relating to court leave for employees of the United States and the District of Columbia.

The Commission urges enactment of H.R. 12979. It is a good step forward in correcting some longstanding inequities.

The bill would remove the financial hardship now faced by some Government employees who must take either annual leave or leave without pay to testify in judicial proceedings. Employees, by serving as witnesses, can play an important role in the administration of justice. This measure is particularly timely when crime control is a matter of such great concern to the entire Nation.

It is reasonable to assume that the cost resulting from enactment of this bill would be very small. While statistics are not available, we believe that the proportion of employees absent from work for the purpose of appearing as witnesses in judicial proceedings is small.

While the cost of the legislation would be low, the resulting benefits, both to Government employees serving as witnesses and to efforts to improve law enforcement and the administration of justice in the United States, would be substantial.

The Bureau of the Budget advises that from the standpoint of the administration's program there is no objection to the submission of this report.

By direction of the Commission:

Sincerely yours,

ROBERT HAMPTON, *Chairman.*

## CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, existing law in which no change is proposed is shown in roman):

## TITLE 5, UNITED STATES CODE

\* \* \* \* \*

### Chapter 55—PAY ADMINISTRATION

#### Subchapter I—General Provisions

Sec.

- 5501. Disposition of money accruing from lapsed salaries or unused appropriations for salaries.
- 5502. Unauthorized office; prohibition on use of funds.
- 5503. Recess appointments.
- 5504. Biweekly pay periods; computation of pay.
- 5505. Monthly pay periods; computation of pay.
- 5506. Computation of extra pay based on standard or daylight savings time.
- 5507. Officer affidavit; condition to pay.
- 5508. Officer entitled to leave; effect on pay status.
- 5509. Appropriations.

#### Subchapter II—Withholding Pay

- 5511. Withholding pay; employees removed for cause.
- 5512. Withholding pay; individuals in arrears.
- 5513. Withholding pay; credit disallowed or charge raised for payment.
- 5514. Installment deduction for indebtedness because of erroneous payment.
- 5515. Crediting amounts received for jury *or witness* service [in State courts].
- 5516. Withholding District of Columbia income taxes.
- 5517. Withholding State income taxes.
- 5518. Deductions for State retirement systems; National Guard employees.
- 5519. Crediting amounts received for certain Reserve or National Guard service.

#### Subchapter III—Advancement, Allotment, and Assignment of Pay

- 5521. Definitions.
- 5522. Advance payments; rates; amounts recoverable.
- 5523. Duration of payments; rates; active service period.
- 5524. Review of accounts.
- 5525. Allotment and assignment of pay.
- 5526. Funds available on reimbursable basis.
- 5527. Regulations.



## Subchapter IV—Dual Pay and Dual Employment

5531. Definitions.

5532. Employment of retired officers of the uniformed services; reduction in retired or retirement pay; exceptions.

5533. Dual pay from more than one position; limitations; exceptions.

5534. Dual employment and pay of Reserves and National Guardsmen.

5534a. Dual employment and pay during terminal leave from uniformed services.

5535. Extra pay for details prohibited.

5536. Extra pay for extra services prohibited.

5537. Fees for jury and witness service [in courts of the United States].

\* \* \* \* \*

### § 5515. Crediting amounts received for jury service in State courts

[An amount received by an employee as defined by section 2105 of this title or an individual employed by the government of the District of Columbia for jury service in a State court for a period during which the employee or individual is entitled to leave under section 6322 of this title shall be credited against pay payable by the United States or the District of Columbia to the employee or individual.]

### § 5515. Crediting amounts received for jury or witness service

*An amount received by an employee as defined by section 2105 of this title or an individual employed by the government of the District of Columbia for service as a juror or witness during a period for which he is entitled to leave under section 6322(a) of this title, or is performing official duty under section 6322(b) of this title, shall be credited against pay payable to him by the United States or the District of Columbia with respect to that period.*

### § 5537. Fees for jury service in courts of the United States

[An employee as defined by section 2105 of this title or an individual employed by the government of the District of Columbia, who is entitled to leave under section 6322 of this title, may not receive fees for jury service in a court of the United States.]

### § 5537. Fees for jury and witness service

(a) *An employee as defined by section 2105 of this title or an individual employed by the government of the District of Columbia may not receive fees for service—*

(1) *as a juror in a court of the United States or the District of Columbia; or*

(2) *as a witness on behalf of the United States or the District of Columbia.*

(b) *An official of a court of the United States or the District of Columbia may not receive witness fees for attendance before a court, commissioner, or magistrate where he is officiating.*

(c) *For the purpose of this section, "court of the United States" has the meaning given it by section 451 of title 28 and includes the United States District Court for the District of the Canal Zone, the District Court of Guam, and the District Court of the Virgin Islands.*

## Chapter 57—TRAVEL, TRANSPORTATION, AND SUBSISTENCE

### Subchapter I—Travel and Subsistence Expenses; Mileage Allowances

Sec.

- 5701. Definitions.
- 5702. Per diem; employees traveling on official business.
- 5703. Per diem, travel, and transportation expenses; experts and consultants; individuals serving without pay.
- 5704. Mileage and related allowances.
- 5705. Advancements and deductions.
- 5706. Allowable travel expenses.
- 5707. Regulations.
- 5708. Effect on other statutes.

### Subchapter II—Travel and Transportation Expenses; New Appointees, Student Trainees, and Transferred Employees

- 5721. Definitions.
- 5722. Travel and transportation expenses of new appointees; posts of duty outside the continental United States.
- 5723. Travel and transportation expenses of new appointees and student trainees; manpower shortage positions.
- 5724. Travel and transportation expenses of employees transferred; advancement of funds; reimbursement on commuted basis.
- 5724a. Relocation expenses of employees transferred or reemployed.
- 5725. Transportation expenses; employees assigned to danger areas.
- 5726. Storage expenses; household goods and personal effects.
- 5727. Transportation of motor vehicles.
- 5728. Travel and transportation expenses; vacation leave.
- 5729. Transportation expenses; prior return of family.
- 5730. Funds available.
- 5731. Expenses limited to lowest first-class rate.
- 5732. General average contribution; payment or reimbursement.
- 5733. Expeditious travel.

### Subchapter III—Transportation of Remains, Dependents, and Effects

- 5741. General prohibition.
- 5742. Transportation of remains, dependents, and effects; death occurring away from official station or abroad.

### Subchapter IV—Miscellaneous Provisions

- 5751. Travel expenses of witnesses.

\* \* \* \* \*

### SUBCHAPTER IV—MISCELLANEOUS PROVISIONS

#### § 5751. Travel expenses of witnesses

(a) Under such regulations as the Attorney General may prescribe, an employee as defined by section 2105 of this title summoned, or assigned by his agency, to testify or produce official records on behalf of the United States is entitled to travel expenses under subchapter I of this chapter. If the case involves the activity in connection with which he is employed, the travel expenses are paid from the appropriation otherwise available for travel expenses of the employee under proper certification by a certifying official of the agency concerned. If the case does not involve its activity, the employing agency may advance or pay the travel expenses of the employee, and later obtain reimbursement from the agency properly chargeable with the travel expenses.

(b) *An employee as defined by section 2105 of this title summoned, or assigned by his agency, to testify in his official capacity or produce official records, on behalf of a party other than the United States, is entitled to travel expenses under subchapter I of this chapter, except to the extent that travel expenses are paid to the employee for his appearance by the court, authority, or party which caused him to be summoned.*

\* \* \* \* \*

## Chapter 63—LEAVE

### Subchapter I—Annual and Sick Leave

- Sec.  
 6301. Definitions.  
 6302. General provisions.  
 6303. Annual leave; accrual.  
 6304. Annual leave; accumulation.  
 6305. Home leave; leave for Chiefs of Missions; leave for crews of vessels.  
 6306. Annual leave; refund of lump-sum payment; recredit of annual leave.  
 6307. Sick leave; accrual and accumulation.  
 6308. Transfers between positions under different leave systems.  
 6309. Leave of absence; rural carriers.  
 6310. Leave of absence; aliens.  
 6311. Regulations.  
 6312. Accrual and accumulation for former ASCS county office employees.

### Subchapter II—Other Paid Leave

6321. Absence of veterans to attend funeral services.  
 [6322. Leave for jury service.]  
 6322. *Leave for jury or witness service; official duty status for certain witness service.*  
 6323. Military leave; Reserves and National Guardsmen.  
 6324. Absence of certain police and firemen.  
 6325. Absence resulting from hostile action abroad.  
 6326. Absence in connection with funerals of immediate relatives in the Armed Forces.

\* \* \* \* \*

#### [§ 6322. Leave for jury service

[Except as provided by section 5515 of this title, the pay of an employee as defined by section 2105 of this title or an individual employed by the government of the District of Columbia may not be reduced during a period of absence for jury service in a State court or a court of the United States because of the absence. The period of absence for jury service is without deduction from other leave of absence authorized by statute.]

#### § 6322. *Leave for jury or witness service; official duty status for certain witness service*

(a) *An employee as defined by section 2105 of this title or an individual employed by the government of the District of Columbia is entitled to leave, without loss of, or reduction in, pay, leave to which he otherwise is entitled, credit for time or service, or performance of efficiency rating, during a period of absence with respect to which he is summoned, in connection with a judicial proceeding, by a court or authority responsible for the conduct of that proceeding, to serve—*

(1) *as a juror; or*

(2) *as a witness on behalf of a party other than the United States, the District of Columbia, or a private party; in the District of Columbia, a State, territory, or possession of the United States including the Commonwealth of Puerto Rico, the Canal Zone, or*



*the Trust Territory of the Pacific Islands. For the purpose of this subsection, 'judicial proceeding' means any action, suit, or other judicial proceeding, including any condemnation, preliminary, informational, or other proceeding of a judicial nature, but does not include an administrative proceeding.*

*(b) An employee as defined by section 2105 of this title or an individual employed by the government of the District of Columbia is performing official duty during the period with respect to which he is summoned, or assigned by his agency, to—*

*(1) testify or produce official records on behalf of the United States or the District of Columbia; or*

*(2) testify in his official capacity or produce official records on behalf of a party other than the United States or the District of Columbia.*

*(c) The Civil Service Commission may prescribe regulations for the administration of this section.*

## SECTION 1823 OF TITLE 28, UNITED STATES CODE

### Chapter 119—EVIDENCE; WITNESSES

Sec.

1821. Per diem and mileage generally; subsistence.

1822. Competency of interested persons; share of penalties payable.

**[1823. United States officers and employees.]**

1824. Mileage fees under summons as both witness and juror.

1825. Payment of fees.

\* \* \* \* \*

#### **[§ 1823. United States officers and employees**

**[**(a) Any officer or employee of the United States or any agency thereof, summoned as a witness on behalf of the United States, shall be paid his necessary expenses incident to travel by common carrier, or, if travel is made by privately owned automobile, at a rate not to exceed that prescribed in section 4 of the Travel Expense Act of 1949, together with a per diem allowance in lieu of subsistence not to exceed the rates of per diem as described in, or established pursuant to, section 3 thereof under regulations prescribed by the Attorney General. Such expenses for appearing as a witness in any case involving the activity in connection with which such person is employed shall be payable from the appropriation otherwise available for travel expenses of such officer or employee under proper certification by a certifying officer of the department or agency concerned. In any case which does not involve its activity, any department or agency may advance or pay the travel expenses and per diem allowance of its officer or employee, summoned as a witness on behalf of the United States, and later obtain reimbursement from the department or agency properly chargeable with such witness' travel expenses.

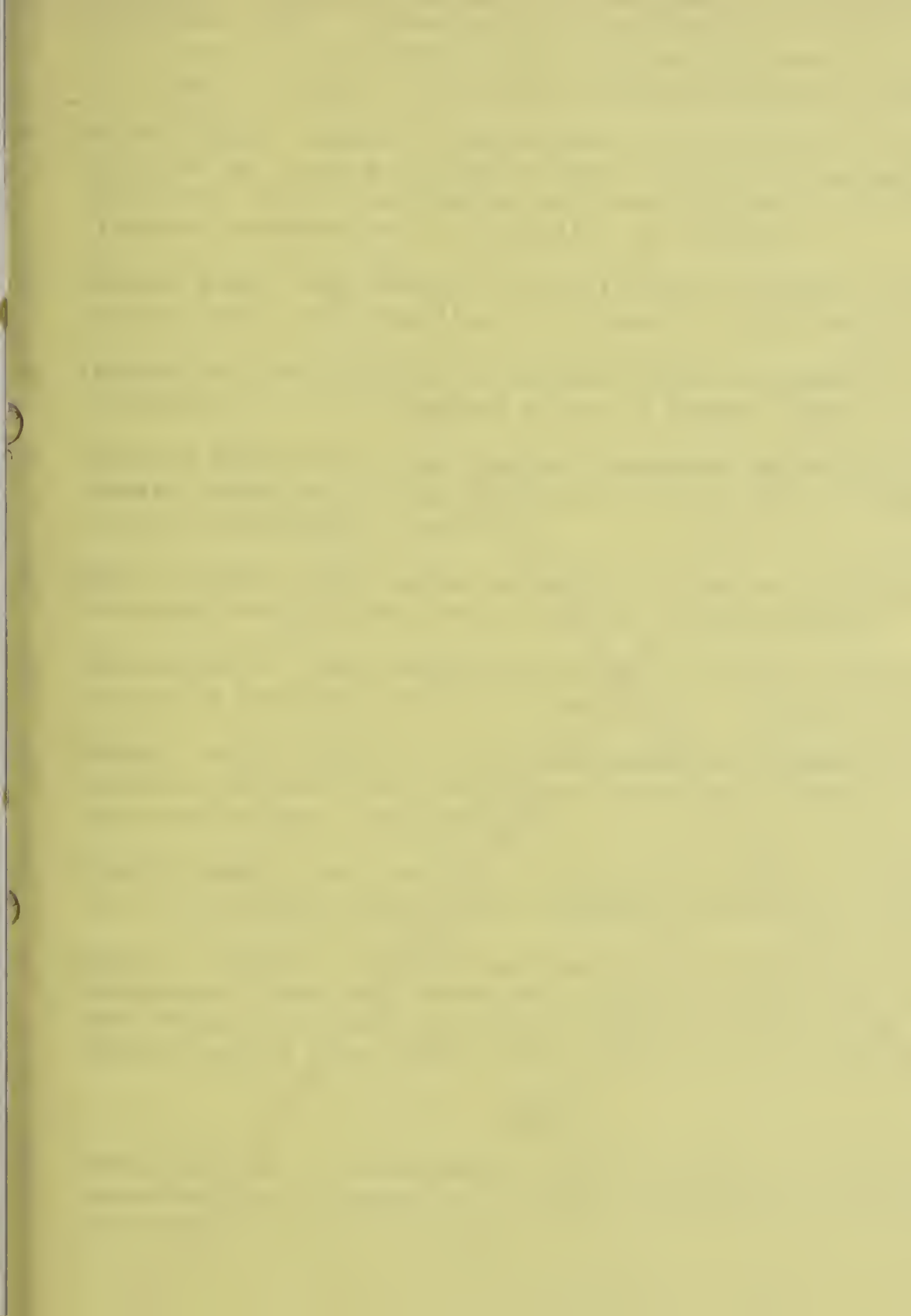
**[**(b) Employees of the United States or an agency thereof in active service called as witnesses on behalf of the District of Columbia in any judicial proceeding in which the government of the District of Columbia is a party, and employees of such government called as

witnesses on behalf of the United States or the District of Columbia in any judicial proceeding in which the United States or the government of the District of Columbia is a party, shall not be paid witness fees, but the period of such service shall be without loss of salary or compensation and shall not be deducted from any authorized leave of absence with pay.

【(c) No officer of any court of the United States located in any State, Territory or the District of Columbia shall be entitled to witness fees for attendance before any court or commissioner where he is officiating.】



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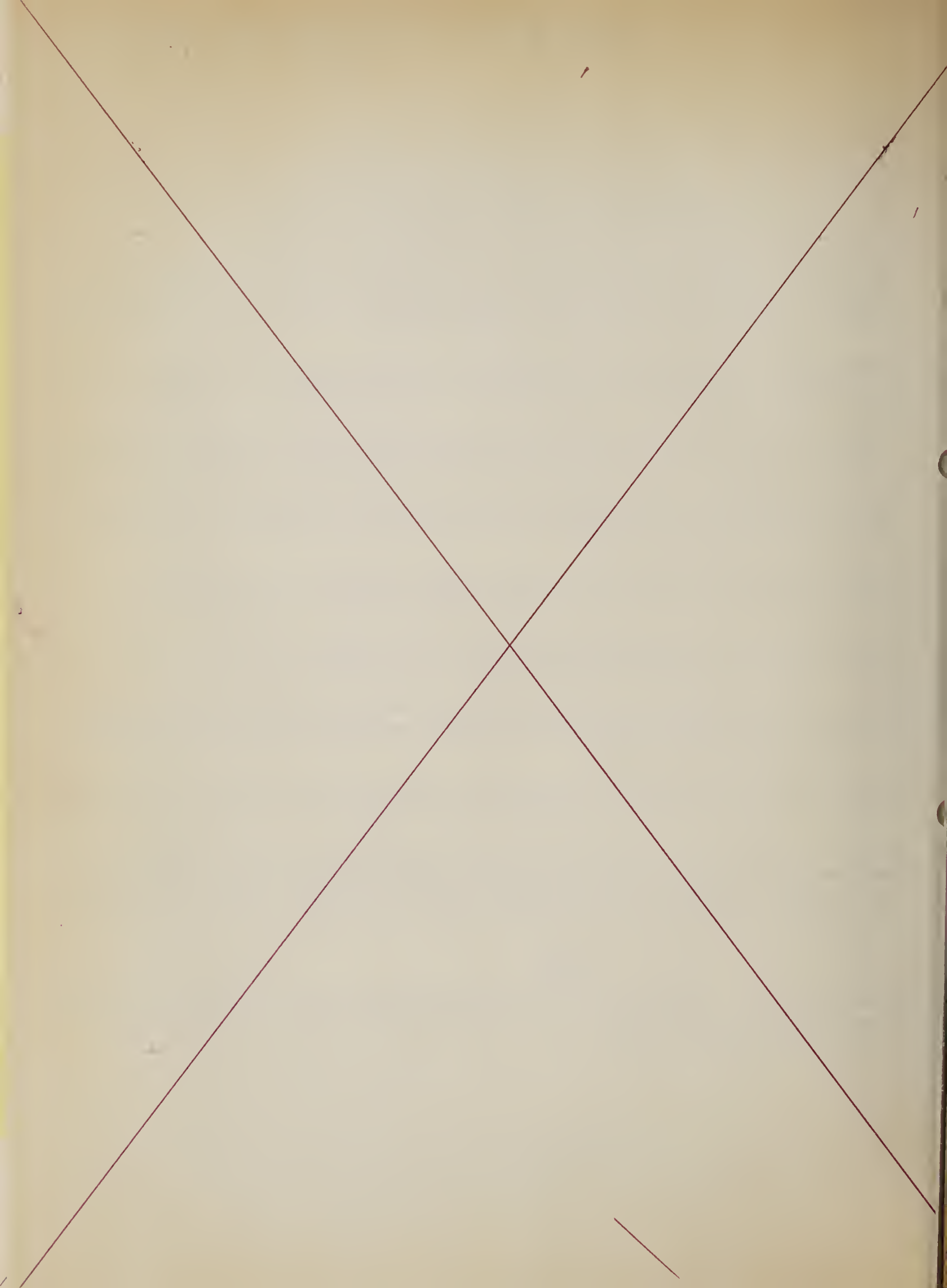
HOUSE  
-2-

Sept. 15, 1969

2. HEALTH. Received from the President the report on the Special Project Grants for the Health of School and Preschool Children. p. H7841
3. PERSONNEL: LEAVE. Passed without amendment H. R. 12979, to grant court leave to U. S. and D. C. employees when called as witnesses in certain judicial proceedings on behalf of State and local governments. pp. H7842-3
4. GOLDEN EAGLE. Agreed to the request of the Senate to return to the Senate S. 2315, to restore the golden eagle program to the Land and Water Conservation Fund Act. The House Interior and Insular Affairs Committee was discharged from further consideration of the bill. pp. H7849-50
5. OPINION POLL. Rep. Gerald R. Ford inserted an opinion poll to be mailed to his constituents including items of interest to this Department. p. H7852
6. INFORMATION: FEDERAL-AID. Rep. Roth spoke in support of the proposed Program Information Act and inserted a list of Federal assistance programs. pp. H7896-790
7. CONSUMER PROTECTION. Rep. Halpern commended the Neighborhood Consumer Information Center education "in the low-income consumer market" programs as a model for consumer protection. p. H7907
8. ATOMIC ENERGY. Rep. Saylor called for action on legislation to conduct a thorough study of the civilian nuclear energy program. pp. H7912-6
9. AIR POLLUTION. Rep. Brademas inserted an article, "The Environment; ACS Report Is Practical Anti-Pollution Guide." pp. H7929-31
10. HUNGER. Rep. Farbstein criticized antihunger programs outside the South and inserted correspondence with State Governors concerning the problems of hunger and malnutrition. pp. H7916-26
11. FOREIGN TRADE. Rep. Brademas inserted Sen. Percy's address before the Japanese American Assembly about trade relations between the U. S. and Japan. pp. H7928-9
12. BUDGET. Received from the President a determination by him that outlays for designated items will exceed the estimates therefor in the April "Review of the 1970 Budget," pursuant to the provisions of title IV of the Second Supplemental Appropriations Act of 1969 (Public Law 91-47). p H7933

SENATE

13. APPROPRIATIONS. A subcommittee of the Appropriations Committee approved for full committee consideration H. R. 12781, the Interior and related agencies 1970 appropriation bill. p. D805







United States  
of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 91<sup>st</sup> CONGRESS, FIRST SESSION

Vol. 115

WASHINGTON, MONDAY, SEPTEMBER 15, 1969

No. 147

## House of Representatives

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

*He who gives heed to the word will prosper, and happy is he who trusts in the Lord.—Proverbs 16: 20.*

O God, our Father, once more in this historic Chamber we respond to the call to prayer and in the quiet of this moment draw near to Thee. Make us aware of Thy presence as a quickening spirit, a sustaining power, a refuge, and a strength in the time of trouble.

We pray for our country that she may be guided and governed by Thy good spirit. Grant that all who call themselves Americans may be led in the way of truth, along the path of good will, and may hold the faith of our democratic life in a deep unity of steadfast purpose.

Bless our President, our Speaker, the Members of this body, and all who labor with them. Keep them calm and steady, full of faith in Thee and in the power of our Nation to be a leading light among the nations of the world.

In the spirit of Christ we pray. Amen.

### THE JOURNAL

The Journal of the proceedings of Thursday, September 11, 1969, was read and approved.

### MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed bills and a joint resolution of the following titles, in which the concurrence of the House is requested:

S. 227. An act to provide for loans to Indian tribes and tribal corporations, and for other purposes;

S. 2068. An act to amend section 302(c) of the Labor-Management Relations Act of 1947 to permit employer contributions to trust funds to provide employees, their families, and dependents with scholarships for study at educational institutions or the establishment of child-care centers for preschool and school-age dependents of employees; and

S.J. Res. 149. Joint resolution to extend for 3 months the authority to limit the rates of interest or dividends payable on time and savings deposits and accounts.

The message also announced that the Secretary be directed to request the House of Representatives to return to the Senate the bill (S. 2315) entitled "An act to restore the golden eagle program to the Land and Water Conservation Fund Act."

### COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:  
SEPTEMBER 12, 1969.

The Honorable the SPEAKER,  
U.S. House of Representatives.

DEAR SIR: I have the honor to transmit herewith a sealed envelope addressed to the Speaker of the House of Representatives from the President of the United States, received in the Clerk's Office at 10:10 a.m., on Friday, September 12, 1969, and said to contain a message from the President wherein he transmits to the Congress the report on the special project grants for the health of school and preschool children, as provided for in Public Law 89-97, title II, section 206.

With kind regards, I am,

Sincerely yours,

W. PAT JENNINGS,

Clerk.

### HEALTH OF SCHOOL AND PRE-SCHOOL CHILDREN—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Ways and Means:

*To the Congress of the United States:*

I transmit herewith the report on the Special Project Grants for the Health of School and Preschool Children, as provided for in P.L. 89-97, Title II, Sec. 206. This report concerns Sec. 532 of the Social Security Act (subsequently redesignated as Sec. 509) which authorizes a program of project grants to assist communities in providing comprehensive care for children living in areas with concentrations of low income families.

RICHARD NIXON.

THE WHITE HOUSE, September 12, 1969.

### PLIGHT OF AMERICAN PRISONERS OF WAR IN NORTH VIETNAM

(Mr. DE LA GARZA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DE LA GARZA. Mr. Speaker, along with my colleagues I have a growing concern regarding the plight of American prisoners of war in North Vietnam and of their loved ones here in the States. Some 1,365 American families, including a number in south Texas, do not know whether their sons or husbands in Vietnam are dead or alive, physically well or ill. More than 300 U.S. servicemen are known to be prisoners of the Communists. More than 1,000 are missing and believed to be prisoners. Their fate remains unknown because North Vietnam continues its brutal refusal to live up to the 1949 Geneva Convention relative to the treatment of prisoners of war.

The families of these American fighting men live each day in uncertainty and dread. The Government, under both this administration and the preceding one, has repeatedly protested mistreatment of prisoners and urged such basic steps, provided for by the Geneva Convention, as repatriation of sick and wounded prisoners and the furnishing of a list of the men actually in North Vietnamese hands. But the response from Hanoi has been insolently negative. The Communist regime has refused even to identify the men held in captivity.

Needless to say, the continuing efforts of the administration on behalf of our American prisoners of war have my full support. South Texas is the home of the most famous former POW, Nikki Rowe, who escaped from the Communists through his own determination and daring. We know from him the conditions under which our men are held. Our hopes and prayers will go with the Texas women, wives of missing men, as they journey to Paris to make an in-person plea to negotiators for information about their husbands and other prisoners.

### IS SOUTH VIETNAM ANNOUNCING AMERICAN POLICY?

(Mr. WALDIE asked and was given permission to address the House for 1



minute and to revise and extend his remarks.)

Mr. WALDIE. Mr. Speaker, the wire services have an announcement that Marshal Ky of South Vietnam has announced that this Nation will withdraw 40,000 additional U.S. troops by the end of October from South Vietnam.

Although I applaud the decision of this Nation that that be done, I am concerned that for too long in the past in Vietnam the policy of this Nation has been dictated by South Vietnam and by North Vietnam. I am now concerned that the policy of this Nation is not only overly influenced by South Vietnam but is even being announced by the military rulers of South Vietnam.

It does seem to me that the President of the United States has the obligation to the people of the United States and to the Congress of the United States to announce the policy of this Nation so that we do not read on the wires and the newspapers that the Vice President of South Vietnam is telling the people of this country what our policy will be in South Vietnam.

#### CORRECTION OF THE RECORD

Mr. BURLISON of Missouri. Mr. Speaker, in the RECORD for September 11, 1969, on page H7809, at the bottom of the right-hand corner on the second line from the bottom, the date "1880" appears. This is a typographical error. It should be "1896."

Mr. Speaker, I ask unanimous consent that the permanent RECORD be corrected accordingly.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

#### PUBLIC SCHOOL SEX EDUCATION

(Mr. FOREMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOREMAN. Mr. Speaker, considerable concern has been expressed by Members of Congress and citizens across the country recently over some of the sex education programs being presented in the schools.

Members of Congress and their wives, I understand, are invited to attend a color film presentation, "Paylov's Children," of these "sex education" materials, and so forth at 2:30 p.m. Wednesday, September 17, in room 2261 of the Rayburn House Office Building. It does not matter whether you are for or against the public school sex education programs and/or materials used, if you are interested in our children and their education, you are invited to review the presentation.

#### NORTH VIETNAM REFUSES AMERICAN AIRMEN GENEVA CONVENTION PROTECTION FOR PRISONERS OF WAR

(Mr. PUCINSKI asked and was given permission to address the House for 1 minute.)

Mr. PUCINSKI. Mr. Speaker, I think all of us are very deeply concerned with the North Vietnamese Red Cross announcement over the weekend that the Geneva accord on the treatment of prisoners of war would not apply and does not apply to American airmen who have been captured and who are now prisoners of war in North Vietnam.

I flew in World War II and I remember that they were given protection under the Geneva Convention. I think this outrageous conduct by the North Vietnamese should not go unnoticed. It occurs to me that the United States ought to call upon all of our allies who, for whatever reasons, continue to do some sort of trade with North Vietnam to impose an economic embargo against North Vietnam until North Vietnam, first, does given an accounting of the prisoners of war and, second, does agree that the Geneva Convention rules on the treatment of prisoners of war will apply to all of our soldiers and airmen.

We now have 401 known American prisoners of war, most of them airmen, who are either in North Vietnamese prison camps or Vietcong prison camps. We have another 981 missing. We do not know whether they are prisoners of war or what their status—whether they are dead or otherwise. But it does occur to me that we are talking here about some 1,400 American soldiers and I hope our State Department will not let this announcement by North Vietnam go unnoticed.

I believe we should arouse the indignation of the entire free world. This whole war is horrible enough and I think this announcement from the Red Cross that the Geneva accord on the treatment of the prisoners of war does not apply to our airmen only adds to the horror.

#### PERMISSION FOR SUBCOMMITTEE ON FISH AND WILDLIFE, COMMITTEE ON MERCHANT MARINE AND FISHERIES, TO SIT DURING GENERAL DEBATE

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the Subcommittee on Fish and Wildlife of the Committee on Merchant Marine and Fisheries may sit today during general debate.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

#### CONSENT CALENDAR

The SPEAKER. This is Consent Calendar day. The Clerk will call the first bill on the Consent Calendar.

#### COURT LEAVE FOR EMPLOYEES OF THE UNITED STATES AND THE DISTRICT OF COLUMBIA

The Clerk called the bill (H.R. 12979) to amend title 5, United States Code, to revise, clarify, and extend the provisions relating to court leave for employees of the United States and the District of Columbia.

There being no objection, the Clerk read the bill, as follows:

H.R. 12979

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 6322 of title 5, United States Code, is amended to read:*

"§ 6322. Leave for jury or witness service; official duty status for certain witness service

"(a) An employee as defined by section 2105 of this title or an individual employed by the government of the District of Columbia is entitled to leave, without loss of, or reduction in, pay, leave to which he otherwise is entitled, credit for time or service, or performance of efficiency rating, during a period of absence with respect to which he is summoned, in connection with a judicial proceeding, by a court or authority responsible for the conduct of that proceeding, to serve—

"(1) as a juror; or

"(2) as a witness on behalf of a party other than the United States, the District of Columbia, or a private party; in the District of Columbia, a State, territory, or possession of the United States including the Commonwealth of Puerto Rico, the Canal Zone, or the Trust Territory of the Pacific Islands. For the purpose of this subsection, 'judicial proceeding' means any action, suit, or other judicial proceeding, including any condemnation, preliminary, informational, or other proceeding of a judicial nature, but does not include an administrative proceeding.

"(b) An employee as defined by section 2105 of this title or an individual employed by the government of the District of Columbia is performing official duty during the period with respect to which he is summoned, or assigned by his agency, to—

"(1) testify or produce official records on behalf of the United States or the District of Columbia; or

"(2) testify in his official capacity or produce official records on behalf of a party other than the United States or the District of Columbia.

"(c) The Civil Service Commission may prescribe regulations for the administration of this section."

(b) Item 6322 in the analysis of chapter 63 of title 5, United States Code, is amended to read:

"6322. Leave for jury or witness service; official duty status for certain witness service."

SEC. 2. (a) Section 5515 of title 5, United States Code, is amended to read:

"§ 5515. Crediting amounts received for jury or witness service.

"An amount received by an employee as defined by section 2105 of this title or an individual employed by the government of the District of Columbia for service as a juror or witness during a period for which he is entitled to leave under section 6322(a) of this title, or is performing official duty under section 6322(b) of this title, shall be credited against pay payable to him by the United States or the District of Columbia with respect to that period."

(b) Item 5515 in the analysis of chapter 55 of title 5, United States Code, is amended to read:

"5515. Crediting amounts received for jury or witness service."

SEC. 3. (a) Section 5537 of title 5, United States Code, is amended to read:

"§ 5537. Fees for jury and witness service

"(a) An employee as defined by section 2105 of this title or an individual employed by the government of the District of Columbia may not receive fees for service—

"(1) as a juror in a court of the United States or the District of Columbia; or

"(2) as a witness on behalf of the United States or the District of Columbia.



"(b) An official of a court of the United States or the District of Columbia may not receive witness fees for attendance before a court, commissioner, or magistrate where he is officiating.

"(c) For the purpose of this section, 'court of the United States' has the meaning given it by section 451 of title 28 and includes the United States District Court for the District of the Canal Zone, the District Court of Guam, and the District Court of the Virgin Islands."

(b) Item 5537 in the analysis of chapter 55 of title 5, United States Code is amended to read:

"5537. Fees for jury and witness service."

SEC. 4. (a) Chapter 57 of title 5, United States Code, is amended by inserting at the end thereof the following new subchapter:

"SUBCHAPTER IV—MISCELLANEOUS PROVISIONS

"§ 5751. Travel expenses of witnesses

"(a) Under such regulations as the Attorney General may prescribe, an employee as defined by section 2105 of this title summoned, or assigned by his agency, to testify or produce official records on behalf of the United States is entitled to travel expenses under subchapter I of this chapter. If the case involves the activity in connection with which he is employed, the travel expenses are paid from the appropriation otherwise available for travel expenses of the employee under proper certification by a certifying official of the agency concerned. If the case does not involve its activity, the employing agency may advance or pay the travel expenses of the employee, and later obtain reimbursement from the agency properly chargeable with the travel expenses.

"(b) An employee as defined by section 2105 of this title summoned, or assigned by his agency, to testify in his official capacity or produce official records, on behalf of a party other than the United States, is entitled to travel expenses under subchapter I of this chapter, except to the extent that travel expenses are paid to the employee for his appearance by the court, authority, or party which caused him to be summoned."

(b) The analysis of chapter 57 of title 5, United States Code, is amended by inserting at the end thereof:

"SUBCHAPTER IV—MISCELLANEOUS PROVISIONS  
"5751. Travel expenses of witnesses."

SEC. 5. (a) Section 1823 of title 28, United States Code, is repealed.

(b) The analysis of chapter 119 of title 28, United States Code, is amended by striking out item 1823.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

#### FURTHERING THE ECONOMIC ADVANCEMENT AND GENERAL WELFARE OF THE HOPI INDIAN TRIBE OF THE STATE OF ARIZONA

The Clerk called the bill (H.R. 4869) to further the economic advancement and general welfare of the Hopi Indian Tribe of the State of Arizona.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. HALL. Mr. Speaker, reserving the right to object, I observe the equity, the interest, and the justice of this bill to expand and develop the Hopi Indian Tribe Industrial Park. But I wonder if we are not setting the stage, as stated by the Bureau of the Budget, for individual action in each one of these cases, which sets a long trail ahead; and if perhaps indeed we should not have gen-

eral legislation completed and submitted in this area rather than handling each case as it comes up from each industrial development council or each tribe?

Mr. ASPINALL. Mr. Speaker, will the gentleman yield?

Mr. HALL. I yield to the chairman of the Committee on Interior and Insular Affairs.

Mr. ASPINALL. Our committee has considered the procedure that has been suggested by the gentleman from Missouri. But each one of these bills—and it is particularly true of the legislation now before us—depends upon the peculiar situation surrounding the Indian tribe itself, and as far as the Hopis are concerned, they are asking for the possibility of industrial development on their own property, which proposed development is different than it is on the properties of other tribes. If it were merely a question of the time limit of this operation, I think perhaps there might be some justification for a general statute. But here again we do not know whether it should be 49 years or 99 years, depending on the kind of investment they have in mind. In this legislation we took everything into consideration which we could think of, and thought that this measure should be placed in this special category.

Mr. HALL. The distinguished gentleman does feel that we would be simply delegating the power of Congress if we did not consider these tribal situations one at a time?

Mr. ASPINALL. The gentleman is correct.

Mr. HALL. Is there any reason, Mr. Speaker, to believe that the way this legislation is written—if we may turn to another subject on the proposed bill—wherein it would carry tax exemption regardless of what the Congress finally does on the general tax reform bill which has passed this body and is pending in the other body? In other words, Mr. Speaker, before I yield to the gentleman, would this inclusion of tax exemption to some degree presently permitted by the State and local industrial development bonds for the Hopis be included if that general authority was repealed under tax reform legislation subsequently enacted?

Mr. ASPINALL. Mr. Speaker, will the gentleman yield?

Mr. HALL. I yield to the gentleman from Colorado.

Mr. ASPINALL. As I understand the question, my understanding is that we would not establish a precedent. It is my understanding also that this bill will stand on its own feet.

Mr. Speaker, the Hopi Tribe has developed, with its own funds, on lands donated to it an industrial park on the outskirts of Winslow, Ariz. The industrial park is some 40 miles from the boundary of the Hopi Reservation proper. In order to expand the park and provide more job opportunities for Hopi Indians, the tribe needs authority to acquire, dispose of, or exchange lands within or in close proximity to the industrial park. It also needs authority to raise additional funds to finance the expansion of the park by borrowing from commercial lending institutions or by

selling bonds, secured by a mortgage of tribal land in the park. The purpose of the bill is to give the tribe this authority, subject in all cases to approval of the Secretary of the Interior.

Any industrial development bonds issued by the tribe will have the same tax status that similar bonds issued by a State or municipality have. If the Federal law regarding the tax status of State or municipal bonds should be changed in the future, the change will also apply to Hopi tribal bonds issued thereafter.

The tribal bonds will be subject to the fraud provisions of the Securities and Exchange Act, but will be exempt from its registration requirements because the issuance of the bonds will be subject to supervision by the Secretary of the Interior.

The tribe, the city of Winslow, and the Secretary of the Interior all recommend the bill.

No expense to the Government is involved.

Mr. HALL. I thank the gentleman from Colorado.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the present consideration of the bill?

There being no objection, the Clerk read the bill, as follows:

H.R. 4869

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purpose of assisting in the economic advancement and contribution to the general welfare of the Hopi Indian Tribe of Arizona, the Secretary of the Interior may, in his discretion, upon request of the Hopi Tribal Council, purchase with tribal funds, or otherwise acquire by gift, exchange, relinquishment or assignment, any lands or interests therein within, adjacent to, or in close proximity to the Hopi Industrial Park in the counties of Navajo and Coconino in the State of Arizona: Provided, That any exchange shall be upon a fair and equitable basis with partial money consideration where required and only such Hopi Tribal lands may be given in any exchanges as are within, adjacent to or in close proximity to said Hopi Industrial Park: And provided further, That title to all lands, or interests therein, acquired pursuant to this authority shall be taken in the name of the United States of America in trust for the Hopi Tribe and such lands, or interests therein, shall be nontaxable.*

SEC. 2. The Hopi Tribal Council shall have the following powers:

(a) To sell any part of the lands within, adjacent to, or in close proximity to said Hopi Industrial Park.

(b) To execute mortgages upon, or deeds of trust to, the lands within said Hopi Industrial Park or adjacent thereto, or in close proximity therewith. Such lands shall be subject to foreclosure or sale pursuant to the terms of such mortgage or deed of trust in accordance with the laws of the State of Arizona. The United States shall be an indispensable party to, and may be joined in, any such proceeding involving said lands with the right to remove the action to the United States district court for the district in which the land is situated, according to the procedure in section 1446, of title 28, United States Code, and the United States shall have the right to appeal from any order of remand entered in such action.

(c) To pledge any revenue or other income from said lands within or adjacent or in close proximity to said Hopi Industrial



Park, and the improvements situated thereon, and any other revenue or income that may be available to the tribe without regard to source, to secure any indebtedness of the Hopi Tribe incurred in the development of said Hopi Industrial Park, and any action to enforce said pledge shall be in accordance with the laws of the State of Arizona, and the United States shall be an indispensable party thereto to the same extent and under the same conditions as hereinbefore provided in the case of mortgage foreclosures.

(d) To issue bonds for and on behalf of the Hopi Tribe, and pay the costs thereof, to accomplish the purposes of this Act, in one or more series, in such denomination or denominations, maturing at such time or times, and in such amount or amounts, bearing interest at such rate or rates, in such form either coupon or registered, to be executed in such manner payable in such medium of payment, at such place or places, subject to such terms of redemption, with or without premium, and containing such other restrictive terms as may be provided by tribal ordinance. Such bonds may be sold at not less than par at either public or private sale and shall be fully negotiable.

(e) To appoint a bank or trust company with its home office in the State of Arizona having an officially reported combined capital, surplus, undivided profits and reserves aggregating not less than \$10,000,000 as trustee for all of the purposes provided in the ordinance authorizing and creating any issue of bonds. Any trustee so appointed may be authorized to commence an action for and on behalf of, or on relation of, the Hopi Tribe to enforce any obligation to the tribe pledged to secure payment of the bonds without joining the United States as a party thereto.

(f) To enter into any business venture as a shareholder of a corporation issuing nonassessable stock, or as a limited partner with any corporation, firm or person operating within or without said Hopi Industrial Park.

(g) To lease or rent the lands within said Hopi Industrial Park and lands acquired by the tribe pursuant to this act, and all improvements thereon under such terms and conditions as the Hopi Tribal Council may determine, and to lease all other tribal land in accordance with existing Federal laws and regulations.

SEC. 3. The exercise of all powers granted the Hopi Tribal Council by this Act shall be subject to the approval of the Secretary of the Interior, or his duly authorized representatives.

SEC. 4. Bonds issued by authority of this Act and bearing the signatures of tribal officers in office on the date of the signing thereof shall be valid and binding obligations, notwithstanding that before the delivery thereof and payment therefor any or all of the persons whose signatures appear thereon have ceased to be officers of the tribal council.

SEC. 5. All bonds issued by the Hopi Tribal Council for and on behalf of the Hopi Tribe and the interest provided in said bonds shall be exempt from taxation by the Government of the United States, or by any State, territory of possession, or by any county, municipality, or other political subdivision of any State, territory, or possession of the United States, or by the District of Columbia.

SEC. 6. The provisions of the Securities Act of 1933 (48 Stat. 74), as amended, and the Securities Exchange Act of 1934 (48 Stat. 881), as amended, shall not apply to the bonds, or the issuance thereof, as authorized by this Act.

With the following committee amendments:

Page 1, line 8, strike out "and" and insert "any".

Page 4, lines 14 through 19, strike out all of subsection (g) and insert in lieu thereof the following:

"(g) To lease lands within the Hopi Industrial Park, lands acquired by the Tribe pursuant to this Act, any other tribal lands, and the improvements thereon, in accordance with the provisions of any Federal laws then in effect."

Page 5, lines 5 through 11, strike out all of section 5 and insert in lieu thereof the following:

"SEC. 5. All bonds issued by the Hopi Tribal Council for and on behalf of the Hopi Tribe and the interest provided in said bonds shall be exempt from taxation to the same extent they would have been exempt if the bonds had been issued by the State of Arizona or a political subdivision thereof."

Page 5, lines 12 through 16, strike out all of section 6 and insert in lieu thereof the following:

"SEC. 6. Any securities issued by the Hopi Tribal Council (including any guarantee by such Council), and any securities guaranteed by the Council as to both principal and interest, shall be deemed to be exempted securities within the meaning of paragraph (a) (2) of section 3 of the Act of May 27, 1933, as amended (15 U.S.C. 77c), and paragraph (a) (12) of section 3 of the Act of June 6, 1934, as amended (15 U.S.C. 78c), and shall be exempt from all registration requirements of said Acts."

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

#### PROVIDING FOR DISPOSITION OF JUDGMENT RECOVERED BY THE CONFEDERATED SALISH AND KOOTENAI TRIBES OF FLATHEAD RESERVATION, MONT.

The Clerk called the bill (H.R. 9756) to provide for the disposition of a judgment recovered by the Confederated Salish and Kootenai Tribes of Flathead Reservation, Mont., in paragraph 11, docket No. 50233, U.S. Court of Claims, and for other purposes.

There being no objection, the Clerk read the bill, as follows:

H.R. 9756

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the funds appropriated to the credit of the Confederated Salish and Kootenai Tribes of the Flathead Reservation, Montana, in satisfaction of a judgment awarded in paragraph 11 of the final decree in docket numbered 50233, United States Court of Claims, including interest thereon, after payment of attorneys' fees and other litigation expenses, may be advanced, expended, invested, or reinvested for any purposes that are authorized by the tribal governing body and approved by the Secretary of the Interior.*

SEC. 2. Any part of such funds that may be distributed to members of the tribes shall not be subject to Federal or State income tax.

With the following committee amendment:

Page 1, line 6, after the first "of" insert "the final decree in".

The committee amendment was agreed to.

Mr. ASPINALL. Mr. Speaker, this bill authorizes the Confederated Salish

and Kootenai Tribes of the Flathead Reservation to use a \$190,399 judgment recovered against the United States in the Indian Claims Commission. The judgment has been appropriated and is in the Treasury to the credit of the tribes. Authorizing legislation is necessary before the money can be spent.

The bill authorizes the money to be used for any purpose authorized by the tribal governing body and approved by the Secretary of the Interior. The tribes intend to use the money to augment their tribal credit programs, which have been quite successful. There is a need for additional credit money, and this will be a good use for the judgment.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. ASPINALL. Mr. Speaker, I ask unanimous consent for the immediate consideration of a similar Senate bill, S. 1766.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

There was objection.

The Clerk read the title of the Senate bill.

The Clerk read the Senate bill, as follows:

S. 1766

An act to provide for the disposition of a judgment recovered by the Confederated Salish and Kootenai Tribes of Flathead Reservation, Montana, in paragraph 11, docket numbered 50233, United States Court of Claims, and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the funds appropriated to the credit of the Confederated Salish and Kootenai Tribes of the Flathead Reservation, Montana, in satisfaction of a judgment awarded in paragraph 11 of the final decision in docket numbered 50233, United States Court of Claims, including interest thereon, after payment of attorneys' fees and other litigation expenses, may be advanced, expended, invested or reinvested for any purposes that are authorized by the tribal governing body and approved by the Secretary of the Interior.*

SEC. 2. Any part of such funds that may be distributed to members of the tribes shall not be subject to Federal or State income tax.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 9756) was laid on the table.

#### PROVIDING FOR DISPOSITION OF JUDGMENT FUNDS OF CONFEDERATED TRIBES OF UMATILLA INDIAN RESERVATION

The Clerk called the bill (H.R. 9477) to provide for the disposition of judgment funds of the Confederated Tribes of the Umatilla Indian Reservation.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. PELLY. Reserving the right to object, Mr. Speaker, I know the bill H.R. 9477 is opposed by the Department of the Interior and also the Bureau of the Budget. I am concerned that the Con-







# **DIGEST** of Congressional Proceedings

## OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE  
(FOR INFORMATION ONLY;  
NOT TO BE QUOTED OR CITED)

For actions of November 24, 1970  
91st-2nd; No. 188

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HIGHLIGHTS: Senate agreed to House amendments to bill prohibiting movement of "sored" horses.  
House appointed conferees on water carrier mixing bill.  
House committee reported bill on duty on olives packed in airtight containers.

### SENATE

1. HORSES. Agreed to House amendments to S. 2543, to prohibit the movement in interstate and foreign commerce of "sored" horses. This bill now goes to the President. pp. S18868-9.

CURT LEAVE. Senate Judiciary committee reported H.R. 12979 with amendments. S. Rept. 91-1371.

2. COMMITTEE ACTION.

Committee on Appropriations voted to report (but did not actually report) H.R. 17755, with amendments, FY 71 Department of Transportation appropriation bill; and reported with amendments H.R. 17867, FY 71 appropriations for the foreign aid program (S. Rept. 91-1370). pp. D1189, S18793

Committee on Public Works voted to report (but did not actually report) an original omnibus rivers, harbors, and flood control bill. p. D1190

3. ENVIRONMENT. Reconsidered action in passing H.J. Res. 1117, to create a Joint Committee on the Environment, and again passed the bill with amendment. pp. S18792-3

4. RURAL AMERICA. Sen. Talmadge discussed the commitment made to revitalize rural America, stating that comprehensive planning and technical assistance is required to develop attractive growth centers from stagnant communities. pp. S18813-4

HOUSE

5. AGRICULTURE COMMITTEE ACTION.

Voted to report (but did not actually report) H.R. 19846, proposed Animal Welfare Act; and

Deferred action on H.R. 19757, proposed Egg Products Inspection bill. p. D1192

6. COMMITTEE ACTION.

Committee on Ways and Means reported H.R. 18564, amending the Tariff Schedules with respect to rate of duty on olives packed in certain airtight containers (H. Rept. 91-1623). p. H10760

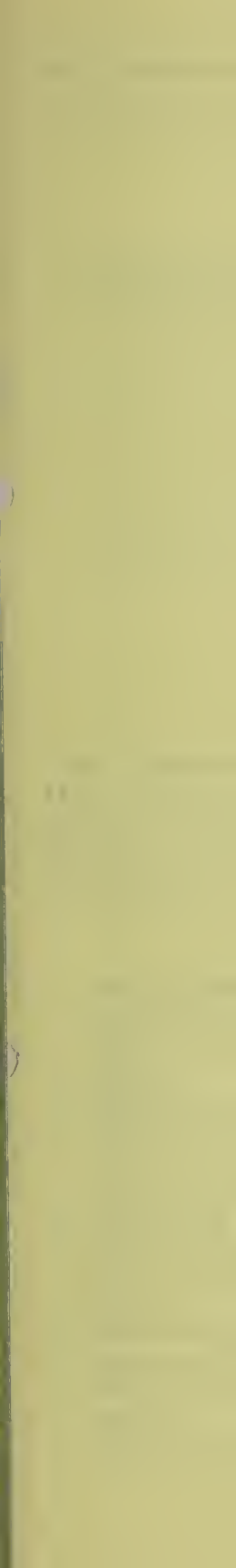
A subcommittee of the Public Works Committee approved for full committee action the committee print of an omnibus rivers, harbors, and flood control bill. p. D1193

7. WATER CARRIERS. Disagreed to the Senate amendments to H.R. 8298, the water carrier mixing bill. Conference requested and conferees appointed. p. H10732

8. DISASTER RELIEF. Appointed conferees on S. 3619, to revise and expand Federal disaster relief programs. p. H10680

9. HIGHWAYS. Adopted H. Res. 1267, providing for the consideration of H.R. 19504, the proposed Federal-Aid Highway Act Authorization of 1970. pp. H10725-8

10. APPROPRIATIONS. Passed H.R. 19830, FY 71 HUD-Independent Offices appropriation bill. pp. H10711-24.







# Calendar No. 1379

91ST CONGRESS }  
2d Session }

SENATE

{

REPORT  
No. 91-1371

## COURT LEAVE FOR EMPLOYEES OF THE UNITED STATES AND THE DISTRICT OF COLUMBIA

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NOVEMBER 24, 1970.—Ordered to be printed

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Mr. TYDINGS, from the Committee on the Judiciary, submitted the following

### REPORT

[To accompany H.R. 12979]

The Committee on the Judiciary, to which was referred the bill (H.R. 12979) to amend provisions of law relating to court leave for employees of the United States and the District of Columbia, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

### AMENDMENTS

1. Page 1, line 8, after the word "title" insert the following:  
(except an individual whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives).
2. Page 2, line 19, after the word "title" insert the following:  
(except an individual whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives).
3. Page 3, line 12, after the word "title" insert the following:  
(except an individual whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives).
4. Page 4, line 3, after the word "title" insert the following:  
(except an individual whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives).

5. Page 5, line 5, after the word "title" insert the following:  
(except an individual whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives).
6. Page 5, line 18, after the word "title" insert the following:  
(except an individual whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives).
7. Page 6, add the following new section:

SEC. 6. (a) For purposes of this section—

(1) "employee" means any individual whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives; and

(2) "court of the United States" has the meaning given it by section 451 of title 28, United States Code, and includes the United States District Court for the District of the Canal Zone, the District Court of Guam, and the District Court of the Virgin Islands.

(b) The pay of an employee shall not be reduced during a period of absence with respect to which the employee is summoned (and permitted to respond to such summons by the appropriate authority of the House of the Congress disbursing his pay), in connection with a judicial proceeding by a court or authority responsible for the conduct of that proceeding, to serve—

(1) as a juror; or

(2) as a witness on behalf of a party other than the United States, the District of Columbia, or a private party;

in the District of Columbia, a State, territory, or possession of the United States including the Commonwealth of Puerto Rico, the Canal Zone, or the Trust Territory of the Pacific Islands. For purposes of this subsection, "judicial proceeding" means any action, suit, or other judicial proceeding, including any condemnation, preliminary, informational, or other proceeding of a judicial nature, but does not include an administrative proceeding.

(c) An employee is performing official duty during the period with respect to which he is summoned (and is authorized to respond to such summons by the House of the Congress disbursing his pay), or is assigned by such House, to—

(1) testify or produce official records on behalf of the United States or the District of Columbia; or

(2) testify in his official capacity or produce official records on behalf of a party other than the United States or the District of Columbia.

(d) (1) An employee may not receive fees for service—

(A) as juror in a court of the United States or the District of Columbia; or

(B) as a witness on behalf of the United States or the District of Columbia.

(2) If an employee receives an amount (other than travel expenses) for service as a juror or witness during a period in which his pay may not be reduced under subsection (b) of this section, or for which he is performing official duty under subsection (c) of this section, the employee shall remit such

amount to the officer who disburses the pay of the employee, which amount shall be covered into the general fund of the Treasury as miscellaneous receipts.

(e)(1) An employee summoned (and authorized to respond to such summons by the House of the Congress disbursing his pay), or assigned by such House; to testify or produce official records on behalf of the United States is entitled to travel expenses. If the case involves an activity in connection with which he is employed, the travel expenses shall be paid from funds otherwise available for the payment of travel expenses of such House in accordance with travel regulations of that House. If the case does not involve such an activity, the department, agency, or independent establishment of the United States on whose behalf he is so testifying or producing records shall pay to the employee his travel expenses out of appropriations otherwise available, and in accordance with regulation applicable, to that department, agency, or independent establishment for the payment of travel expenses.

(2) An employee summoned (and permitted to respond to such summons by the House of the Congress disbursing his pay), or assigned by such House, to testify in his official capacity or produce official records on behalf of a party other than the United States, is entitled to travel expenses, unless any travel expenses are paid to the employee for his appearance by the court, authority, or party which caused him to be summoned.

(f) The Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives are authorized to prescribe, for employees of their respective Houses, such rules and regulations as may be necessary to carry out the provisions of this section.

(g) No provision of this section shall be construed to confer the consent of either House of the Congress to the production of official records of that House or to testimony by an employee of that House concerning activities related to his employment.

#### PURPOSE OF AMENDMENTS

Although the intent of H.R. 12979 is to protect all Federal employees, the major sections of the bill, as passed by the House of Representatives, are not germane to legislative employees. For instance, the first two sections of the bill, which deal with leave for jury or witness service, are premised upon a formal leave system. However, there is no formal leave system for individuals whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives. The act is amended to remove these employees from the misfitting sections and to provide appropriate coverage in section 6, a new section. Section 6 protects Senate and House employees' pay, rather than leave, from reduction when they are called for jury or witness service.

Another problem is found in section 4 of the bill, which relates to the payment of travel expenses of employees of the United States when summoned as witnesses. This section provides that the employees are



entitled to travel expenses under subchapter I of chapter 56 of title 5, United States Code. However, these travel provisions do not now apply to legislative employees. Legislative employees of the United States Senate and House of Representatives should not be subject to the travel expense limitation of subchapter I of chapter 57 of title 5, United States Code, or to any of the other limitations that ordinarily would apply only to the employees of the executive branch. The bill is amended to remove legislative employees from section 4 and to cover these employees in section 6.

The provisions of the new section 6 are tailored to the problems of the legislative branch. Ultimate control is left in the hands of the Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives.

The amendments were drafted with the assistance of the Comptroller of the Senate. Moreover, the chairman of the Committee on Post Office and Civil Service of the House of Representatives, the committee that studied the legislation in the House, has indicated in a letter to the chairman that he considers amendments similar to those purposed to be desirable for employees of the House of Representatives.

#### PURPOSE

The major purpose of this legislation is to alleviate financial hardship now imposed on employees of the United States and of the District of Columbia resulting from their service as a witness, a juror or an official representative from the agency in which he serves. The hardship is alleviated in the following ways:

By extending existing authority relating to court leave for an employee of the United States or of the District of Columbia to include periods when the employee is appearing as a witness in a judicial proceeding on behalf of a State or local government.

By extending existing authority relating to an official duty status for an employee of the United States or of the District of Columbia when summoned, or assigned by his agency, to testify or produce official records on behalf of the United States or the District of Columbia, to include periods when summoned or assigned by his agency, to testify in his official capacity or to produce official records on behalf of a party other than the United States or the District of Columbia.

By extending existing authority relating to travel expenses for an employee of the United States when summoned, or assigned by his agency, to testify or to produce official records on behalf of the United States, to include situations when summoned, or assigned by his agency, to testify in his official capacity or to produce official records on behalf of a party other than the United States.

#### STATEMENT—BACKGROUND

On April 17, 1969, Congressman David N. Henderson introduced H.R. 10247, to extend court leave for employees of the United States and the District of Columbia to include absences not only for jury service, but also when called as witnesses in certain judicial proceedings on behalf of State and local governments.

The House Subcommittee on Manpower and Civil Service of the Committee on Post Office and Civil Service held public hearings and

took testimony from representatives of five major employee organizations and the General Counsel of the Civil Service Commission.

All of the testimony was favorable to the proposed legislation, but it also evidenced a need for clarification and expansion of the coverage. Accordingly, all members of the subcommittee cosponsored a successor bill, H.R. 12979, which was ordered reported unanimously without amendment.

The enactment of this legislation is recommended by the Civil Service Commission. The Commission advised the House Committee on Post Office and Civil Service by letter dated July 31, 1969, that the bill was a good step forward in correcting some longstanding inequities. No opposition to this bill has been registered.

On September 15, 1969, H.R. 12979 passed the House of Representatives. H.R. 12979 as passed by the House, will—

(1) Extend the court leave provisions, now available for an employee of the United States or of the District of Columbia while serving as a juror, to include a period of absence when the employee is summoned to appear in a judicial proceeding as a witness on behalf of a party other than the United States, other than the District of Columbia, or other than a private party, such as a State or a local government;

(2) Provide that duty by an employee of the United States or of the District of Columbia is official duty during periods with respect to which the employee is summoned, or assigned by his agency, to testify or produce official records on behalf of the United States or of the District of Columbia (which, under existing law, is treated as court leave) or testify in his official capacity or produce official records on behalf of any party other than the United States or the District of Columbia;

(3) Require that an amount received by the employee for service as a juror or a witness shall be credited against pay otherwise due the employee; and

(4) Transfer the existing authority relating to travel expenses for an employee of the United States when testifying or producing official records on behalf of the United States, from title 28 of the United States Code, and amplify such provisions so as to authorize the payment of travel expenses to such an employee of the United States when summoned on behalf of a party other than the United States to testify in his official capacity or to produce official records, except to the extent that travel expenses are paid to the employee by such other party.

The court leave provisions (sec. 6322(a)) will apply in connection with judicial proceedings by a court or authority responsible for the conduct of such proceedings in the District of Columbia, a State, territory, or possession of the United States, including the Commonwealth of Puerto Rico, the Canal Zone, or the Trust Territory of the Pacific Islands. The judicial proceedings include any action or suit, including condemnation, preliminary, informational, or other proceeding of a judicial nature, but does not include an administrative proceeding.

The new official duty status provisions (sec. 6322(b)(2)) and the new travel expenses provisions (sec. 5751(b)) are not limited to judicial proceedings but applied to any proceedings with respect to which the employee is summoned, or assigned by his agency, to testify in his official capacity or produce official records.



## COURT LEAVE

Court leave is authorized under existing law for an employee of the United States or of the District of Columbia for jury duty (5 U.S.C. 6322) or for attending court in a nonofficial capacity as a witness on behalf of the United States or the government of the District of Columbia (28 U.S.C. 1823).

The court may be a State, Federal, or District of Columbia court, and municipal courts are considered as State courts for purposes of these laws.

When an employee appears as a witness for the Government in a nonofficial capacity, he is carried on court leave and paid his regular salary during the time he is absent as a witness (38 Comp. Gen. 307, 310).

When an employee is called as a court witness in his official capacity, whether on behalf of the Government or a private party, he is in an official duty status and entitled to his regular compensation without regard to entitlement of court leave (38 Comp. Gen. 142).

When an employee's appearance in court as a witness is not on behalf of the United States or the government of the District of Columbia, and not in his official capacity, his absence from duty must be charged as either annual leave or as leave without pay (27 Comp. Gen. 83).

The present restrictions against granting of court leave while serving as a witness on behalf of a State or local government have caused hardships to a number of employees. For example, one Federal employee lost 2 days' work when he was subpoenaed by a State attorney general as a witness to a highway accident. In another instance, a Federal employee was required to take 3 days of annual leave to serve as a witness for a county in a robbery case. In still another case, a Federal employee lost an aggregate of 18 days' annual leave when he was subpoenaed as a State witness in a murder trial. There was also an instance where a Federal employee who, after observing a hit-and-run accident pursued the offender, and was later required to use his annual leave when called as a witness for the State.

There are also a number of employee hardship cases in the non-criminal area wherein individuals are called as witnesses by a governmental body in tax suits, condemnation proceedings, and eminent domain actions.

In accordance with existing law, employees of the United States and of the District of Columbia, when appearing on behalf of State or local governments, are penalized through either loss of pay or annual leave. Since it is to their financial detriment, such employees may be understandably reluctant to step forward as witnesses to criminal acts.

In these days of deep concern over crime and crime control, employees should not be penalized for performing their civic duty. The Federal Government should be leading the way in this area.

The General Counsel of the Civil Service Commission testified that in a 1963 survey, the Bureau of Labor Statistics found that over 60 percent of the industries included in the survey granted court leave to their employees.

This legislation will alleviate the hardship for such employees when they are serving as a witness on behalf of a State or local government.

This legislation also provides (5 U.S.C. 6322 (b)) that an employee of the United States or of the District of Columbia "is performing

official duty" during a period with respect to which he is summoned, or assigned by his agency, to (1) testify or produce official records on behalf of the United States or the District of Columbia, or (2) testify in his official capacity or produce official records on behalf of a party other than the United States or the District of Columbia.

#### TRAVEL EXPENSES OF GOVERNMENT WITNESS

There are also restrictions on the payment of travel expenses to employees of the United States when summoned as witnesses. Existing law (28 U.S.C. 1823 (a)) authorizes payment of travel expenses when employees are summoned as witnesses on behalf of the United States. It does not authorize payment of travel expenses of employees summoned or assigned by their agencies, other than on behalf of the United States, to testify in their official capacity or to produce official records.

The Comptroller General has ruled that, since it is not a function of the Government to furnish witnesses or official records subpoenaed by private litigants, appropriated funds cannot be used to pay the travel expenses of employees of the United States who perform such functions, even though it is clear that the employees perform those functions as a part of their official duties.

The classic example of this inequity is the U.S. Weather Bureau employee who is called upon as a witness, other than on behalf of the United States, to produce official weather records. Under existing law, this employee cannot be paid from appropriated funds for any travel expenses which he might incur.

This legislation transfers the existing authority from title 28 to title 5 and extends the authority to pay travel expenses for witnesses to include cases when the employee is summoned or assigned by his agency to testify in his official capacity or to produce official records on behalf of a party other than the United States.

#### EXPLANATION OF THE BILL BY SECTIONS

Subsection (a) of the first section of the bill amends section 6322 of title 5, United States Code, which presently authorizes court leave for employees of the United States and of the District of Columbia, except legislative employees, during a period of absence for service as a juror in a State court or in a court of the United States.

As amended by this bill, section 6322(a) will continue to authorize court leave for jury duty in courts of the United States and State courts, but the amendment will include jury duty in courts in the District of Columbia, and in a territory or possession of the United States, including the Commonwealth of Puerto Rico, the Canal Zone, or the Trust Territory of the Pacific Islands.

In addition, section 6322(a) will authorize court leave for employees of the United States and of the District of Columbia, except legislative employees, when summoned, in connection with a judicial proceeding, by the court or the authority responsible for the conduct of the proceeding as a witness on behalf of a party other than the United States, the District of Columbia, or a private party.

The subsection defines judicial proceeding to mean any action, suit, or other judicial proceeding, including any condemnation, preliminary, informational, or other proceeding of a judicial nature. The term does not include an administrative proceeding. This is a broad defini-

tion of judicial proceeding, and it is the intention of the committee that it be construed liberally. Insofar as witness leave is concerned, all stages (preliminary hearing, inquest, trial, or deposition taking) of the proceeding would be covered. Included within the definition are condemnation proceedings as well as preliminary, informational, and other proceedings of a judicial nature. Examples of the latter would include hearings and conferences before a committing court, magistrate, or commission, grand jury proceedings, and coroners' inquests. It would also include such informational proceedings as hearings and conferences conducted by a prosecuting attorney for the purpose of determining whether an information or charge should be made in a particular case.

It should be emphasized that an employee would be entitled to witness leave only if he is summoned by the court or authority responsible for the conduct of the proceeding. The employee would not be entitled to leave if he just volunteered; he must be summoned. In view of the precise and technical meaning that attaches to the word "subpena," that word has not been used in either this section or the other sections of the bill. Rather, the word "summoned" is used. It is contemplated that the court or authority responsible for the conduct of the proceeding could summon an employee by means of other than a subpoena. What is intended is that the summons be an official request, invitation, or call, evidenced by an official writing.

Both jury leave under subsection (a) (1) of section 6322 and witness leave under subsection (a) (2) would be without loss of, or reduction in, pay, leave to which he is otherwise entitled, credit for time or service, or performance or efficiency rating.

Subsection (b) of the amended section 6322 provides that employees of the United States and the District of Columbia, except legislative employees, who are summoned, or assigned by their agencies, to (1) testify or produce official records on behalf of the United States or the District of Columbia, or (2) testify in their official capacity or produce official records on behalf of other than the United States or the District of Columbia are performing official duty. This reflects existing law (28 U.S.C. 1823) and rulings of the Comptroller General when the employees are acting on behalf of the United States or the District of Columbia, and extends application to include situations when acting on behalf of a party other than the United States or the District of Columbia.

Subsection (c) of the amended section 6322 authorizes the Civil Service Commission to prescribe regulations for the administration of the section.

Subsection (b) of the first section of the bill makes a corresponding change in item 6322 in the analysis of chapter 63 of title 5, United States Code.

Legislative employees excluded from the first section are provided parallel coverage, safeguarding their pay rather than their leave, in section 6.

Section 2(a) of the bill amends section 5515 of title 5, United States Code, which presently provides for crediting against pay amounts received by employees of the United States and the District of Columbia for jury service in State courts. Under the amendment of section 5515, amounts received for jury or witness service during a period for which the employee is entitled to court leave under section 6322(a) of



title 5, or is performing official duty referred to in section 6322(b) of title 5, would be credited against his pay.

Section 2(b) makes corresponding change in item 5515 in the analysis of chapter 55 of title 5.

Legislative employees are also excluded from coverage under section 2, but are subjected to similar coverage under section 6.

Section 3(a) of the bill amends 5537 of title 5, United States Code, which currently provides that employees of the United States and the District of Columbia may not receive fees for service as a juror in a court of the United States.

Under the amendment of section 5537, such prohibition is retained in subsection (a) (1). Reference to service as a juror in a court of the District of Columbia is added for clarity and to reflect past interpretations that the courts of the United States include, for the purpose of this section, courts of the District of Columbia.

Subsection (a) (2) of section 5537 prohibits employees of the United States and the District of Columbia from receiving a fee for witness service in a judicial proceeding on behalf of the United States or the District of Columbia. This later prohibition, now appearing in 28 U.S.C. 1823, is a corollary of the provision included by this bill in 5 U.S.C. 6322 (b) (1) than an employee performing this type of service is performing official duty.

Subsection (b) of the amended section 5537 restates provisions currently set forth in 28 U.S.C. 1823 (c), and includes officials of courts of the United States and of the District of Columbia within the purview thereof.

Subsection (c) of the amended section 5537 provides a definition of "court of the United States" for the purpose of this section.

Subsection 3(b) makes a corresponding change in item 5537 in the analysis of chapter 55 of title 5.

Section 1823 of title 28 is repealed by section 5 of the bill.

Legislative employees are also excluded from coverage under section 3, but are subjected to similar restrictions in section 6.

Section 4(a) of the bill amends chapter 57 (relating to travel and transportation) of title 5, United States Code, by inserting a new section 5751 captioned "Travel expenses of witnesses" in a new subchapter IV.

Subsection (a) of the new section 5751 restates those provisions of 28 U.S.C. 1823(a) which authorize payment of travel expenses to employees of the United States who appear to testify or produce official records on behalf of the United States.

Subsection (b) of the new section 5751 authorizes payment of travel expenses to employees of the United States who are summoned, or assigned by their agency, to testify in their official capacity, or produce official records, on behalf of a party other than the United States. Travel expenses paid to the employee either by the court, authority, or party for his appearance would be deducted from the travel expenses authorized by this subsection.

Legislative employees are also excluded from this section and covered instead in section 6.

Section 5 repeals 28 U.S.C. 1823. As noted above, the provisions of 28 U.S.C. 1823 have been included in the appropriate sections of title 5, United States Code, by the amendments made by this bill.

Section 6 represents the heart of the amendments made to the House version of the bill. This section covers any individual whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives.

Subsections 6(b) and (c) provides legislative employees with protection similar to that provided other Federal employees in the first three subsections. Subsection 6(b) and (c) protect pay rather than leave.

Subsection 6(d), like section 2, provides that legislative employees may not be compensated for service as juror, witness or for performing an official duty.

Subsection 6(e), like section 4, provides travel expenses for legislative personnel.

Subsection 6(f) empowers the Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives to prescribe, for employees of their respective Houses, such rules and regulations as may be necessary to carry out the provisions of this section.

Subsection 6(g) provides that nothing in the bill confers the consent of either House of the Congress to the production of official records of that House or to testimony by an employee of that House concerning activities related to his employment.

#### Cost

There is no basis on which to estimate the cost of this legislation since records are not maintained as to the amount of annual leave or without pay taken by employees appearing as witnesses. However, the number of such employees appearing as witnesses in judicial proceedings on behalf of State or local governments is not considered to be large. Additionally, the number of employees summoned, or assigned by their agency, to testify in their official capacity or produce official records, on behalf of a party other than the United States, and who under the proposed legislation would be paid travel expenses, is considered to be small.

The committee believes that the bill is meritorious and recommends it favorably.

#### AGENCY RECOMMENDATION

The report of the Civil Service Commission dated July 31, 1969, on H.R. 12979, is set forth below.

U.S. CIVIL SERVICE COMMISSION,  
*Washington, D.C., July 31, 1969.*

HON. THADDEUS J. DULSKI,  
*Chairman, Committee on Post Office and Civil Service,  
House of Representatives.*

DEAR MR. CHAIRMAN: This is in reply to your request for the views of the Civil Service Commission on H.R. 12797, a bill to amend title 5, United States Code, to revise, clarify, and extend the provisions relating to court leave for employees of the United States and the District of Columbia.

The Commission urges enactment of H.R. 12979. It is a good step forward in correcting some longstanding inequities.



The bill would remove the financial hardship now faced by some Government employees who must take either annual leave or leave without pay to testify in judicial proceedings. Employees, by serving as witnesses, can play an important role in the administration of justice. This measure is particularly timely when crime control is a matter of such great concern to the entire Nation.

It is reasonable to assume that the cost resulting from enactment of this bill would be very small. While statistics are not available, we believe that the proportion of employees absent from work for the purpose of appearing as witnesses in judicial proceedings is small. While the cost of the legislation would be low, the resulting benefits, both to Government employees serving as witnesses and to efforts to improve law enforcement and the administration of justice in the United States, would be substantial.

The Bureau of the Budget advises that from the standpoint of the administration's program there is no objection to the submission of this report.

By direction of the Commission.

Sincerely yours,

ROBERT HAMPTON,  
*Chairman.*

#### HOUSE RECOMMENDATION

U.S. HOUSE OF REPRESENTATIVES,  
*Washington, D.C., May 13, 1970.*

HON. JAMES O. EASTLAND,  
*Chairman, Committee on the Judiciary,*  
*U.S. Senate*

DEAR MR. CHAIRMAN: I would like to invite your attention to an amendment that may be appropriate when your committee gives consideration to H.R. 12979, relating to court leave and travel expenses.

The several provisions of this bill are made applicable to "an employee as defined by section 2105" of title 5, United States Code. By definition, this subjects legislative employees to these provisions.

Section 4 of the bill relates to the payment of travel expenses of employees of the United States when summoned as witnesses, and provides that the employees are entitled to travel expenses under subchapter I of chapter 57 of title 5, United States Code. These travel provisions do not now apply to legislative employees.

It was not the intent of our committee to subject legislative employees of the U.S. Senate and House of Representatives to the travel expense limitations of subchapter I of chapter 57 of title 5, United States Code, or to any of the other limitations that ordinarily would apply only to the employees of the executive branch. Accordingly, if your committee should determine it appropriate to amend the bill to provide special provisions for legislative employees of the Senate, it would be appreciated if you would include legislative employees of the House under similar provisions.

With kindest personal regards,

Sincerely yours,

THADDEUS J. DULSKI,  
*Chairman.*



## CHANGES IN EXISTING LAW MADE BY THE BILL AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman) :

### TITLE 5, UNITED STATES CODE

#### Chapter 55.—PAY ADMINISTRATION

##### SUBCHAPTER I.—GENERAL PROVISIONS

Sec.

- 5501. Disposition of money accruing from lapsed salaries or unused appropriations for salaries.
- 5502. Unauthorized office ; prohibition on use of funds.
- 5503. Recess appointments.
- 5504. Biweekly pay periods ; computation of pay.
- 5505. Monthly pay periods ; computation of pay.
- 5506. Computation of extra pay based on standard or daylight savings time.
- 5507. Officer affidavit : condition to pay.
- 5508. Officer entitled to leave ; effect on pay status.
- 5509. Appropriations.

##### SUBCHAPTER I.—GENERAL PROVISIONS

- 5511. Withholding pay : employees removed for cause.
- 5512. Withholding pay ; individuals in arrears.
- 5513. Withholding pay ; credit disallowed or charge raised for payment.
- 5514. Installment deduction for indebtedness because of erroneous payment.
- 5515. Crediting amounts received for jury *or witness* service [in State courts].
- 5516. Withholding District of Columbia income taxes.
- 5517. Withholding State income taxes.
- 5518. Deductions for State retirement systems : National Guard employees.
- 5519. Crediting amounts received for certain Reserve or National Guard service.

##### SUBCHAPTER III.—ADVANCEMENT, ALLOTMENT, AND ASSIGNMENT OF PAY

- 5521. Definitions.
- 5522. Advance payments ; rates ; amounts recoverable.
- 5523. Duration of payments ; rates ; active service period.
- 5524. Review of accounts.
- 5525. Allotment and assignment of pay.
- 5526. Funds available on reimbursable basis.
- 5527. Regulations.

##### SUBCHAPTER IV.—DUAL PAY AND DUAL EMPLOYMENT

- 5531. Definitions.
- 5532. Employment of retired officers of the uniformed services ; reduction in retired or retirement pay ; exceptions.
- 5533. Dual pay from more than one position ; limitations ; exceptions.
- 5534. Dual employment and pay of Reserves and National Guardsmen.
- 5534a. Dual employment and pay during terminal leave from uniformed services.
- 5535. Extra pay for details prohibited.
- 5536. Extra pay for extra services prohibited.
- 5537. Fees for jury *and witness* service [in courts of the United States].

\* \* \* \* \*

## **[§ 5515. Crediting amounts received for jury service in State courts**

**[An amount received by an employee as defined by section 2105 of this title or an individual employed by the government of the District of Columbia for jury service in a State court for a period during which the employee or individual is entitled to leave under section 6322 of this title shall be credited against pay payable by the United States or the District of Columbia to the employee or individual.]**

## **§ 5515. Crediting amounts received for jury or witness service**

*“An amount received by an employee as defined by section 2105 of this title (except an individual whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives) or an individual employed by the government of the District of Columbia for service as a juror or witness during a period for which he is entitled to leave under section 6322(a) of this title, or is performing official duty under section 6322(b) of this title, shall be credited against pay payable to him by the United States or the District of Columbia with respect to that period.*

## **[§ 5537. Fees for jury service in courts of the United States**

**[An employee as defined by section 2105 of this title or an individual employed by the government of the District of Columbia, who is entitled to leave under section 6322 of this title, may not receive fees for jury service in a court of the United States.]**

## **§ 5537. Fees for jury and witness service**

*(a) An employee as defined by section 2105 of this title (except an individual whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives) or an individual employed by the government of the District of Columbia may not receive fees for service—*

*(1) as a juror in a court of the United States or the District of Columbia; or*

*(2) as a witness on behalf of the United States or the District of Columbia.*

*(b) An official of a court of the United States or the District of Columbia may not receive witness fees for attendance before a court, commissioner, or magistrate where he is officiating.*

*(c) For the purpose of this section, “court of the United States” has the meaning given it by section 451 of title 28 and includes the United States District Court for the District of the Canal Zone, the District Court of Guam, and the District Court of the Virgin Islands.*

## **Chapter 57.—TRAVEL, TRANSPORTATION, AND SUBSISTENCE**

### **SUBCHAPTER I.—TRAVEL AND SUBSISTENCE EXPENSES; MILEAGE ALLOWANCES**

Sec.

5701. Definitions.

5702. Per diem; employees traveling on official business.

5703. Per diem, travel, and transportation expenses; experts and consultants; individuals serving without pay.

5704. Mileage and related allowances.

5705. Advancements and deductions.

5706. Allowable travel expenses.

5707. Regulations.

5708. Effect on other statutes.



## SUBCHAPTER II.—TRAVEL AND TRANSPORTATION EXPENSES; NEW APPOINTEES, STUDENT TRAINEES, AND TRANSFERRED EMPLOYEES

- 5721. Definitions.
- 5722. Travel and Transportation expenses of new appointees; posts of duty outside the continental United States.
- 5723. Travel and transportation expenses of new appointees and student trainees; manpower shortage positions.
- 5724. Travel and transportation expenses of employees transferred; advancement of funds; reimbursement on commuted basis.
- 5724a. Relocation expenses of employees transferred or reemployed.
- 5725. Transportation expenses; employees assigned to danger areas.
- 5726. Storage expenses; household goods and personal effects.
- 5727. Transportation of motor vehicles.
- 5728. Travel and transportation expenses; vacation leave.
- 5729. Transportation expenses; prior return of family.
- 5730. Funds available.
- 5731. Expenses limited to lowest first-class rate.
- 5732. General average contribution; payment or reimbursement.
- 5733. Expeditious travel.

## SUBCHAPTER III.—TRANSPORTATION OF REMAINS, DEPENDENTS, AND EFFECTS

- 5741. General prohibition.
- 5742. Transportation of remains, dependants, and effects; death occurring away from official station or abroad.

## SUBCHAPTER IV.—MISCELLANEOUS PROVISIONS

- 5751. *Travel expenses of witnesses.*

\* \* \* \* \*

### § 5751. *Travel expenses of witnesses*

“(a) Under such regulations as the Attorney General may prescribe, an employee as defined by section 2105 of this title (except an individual whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives) summoned, or assigned by his agency, to testify or produce official records on behalf of the United States is entitled to travel expenses under subchapter I of this chapter. If the case involves the activity in connection with which he is employed, the travel expenses are paid from the appropriation otherwise available for travel expenses of the employee under proper certification by a certifying official of the agency concerned. If the case does not involve its activity, the employing agency may advance or pay the travel expenses of the employee, and later obtain reimbursement from the agency properly chargeable with the travel expenses.

(b) An employee as defined by section 2105 of this title (except an individual whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives) summoned, or assigned by his agency, to testify in his official capacity or produce official records, on behalf of a party other than the United States, is entitled to travel expenses under subchapter I of this chapter, except to the extent that travel expenses are paid to the employee for his appearance by the court, authority, or party which caused him to be summoned.

\* \* \* \* \*



## Chapter 63.—LEAVE

## SUBCHAPTER I.—ANNUAL AND SICK LEAVE

Sec.

- 6301. Definitions.
- 6302. General provisions.
- 6303. Annual leave; accrual.
- 6304. Annual leave; accumulation.
- 6305. Home leave; leave for Chiefs of Missions; leave for crews of vessels.
- 6306. Annual leave; refund of lump-sum payment; recredit of annual leave.
- 6307. Sick leave; accrual and accumulation.
- 6308. Transfers between positions under different leave systems.
- 6309. Leave of absence; rural carriers.
- 6310. Leave of absence; aliens.
- 6311. Regulations.
- 6312. Accrual and accumulation for former ASCS county office employees.

## SUBCHAPTER II.—OTHER PAID LEAVE

- 6321. Absence of veterans to attend funeral services.
- 【6322. Leave for jury service.】
- 6322. *Leave for jury or witness service; official duty status for certain witness service.*
- 6323. Military leave; Reserves and National Guardsmen.
- 6324. Absence of certain police and firemen.
- 6325. Absence resulting from hostile action abroad.
- 6326. Absence in connection with funerals of immediate relatives in the Armed Forces.

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## 【§ 6322. Leave for jury service

【Except as provided by section 5515 of this title, the pay of an employee as defined by section 2105 of this title or an individual employed by the government of the District of Columbia may not be reduced during a period of absence for jury service in a State court or a court of the United States because of the absence. The period of absence for jury service is without deduction from other leave of absence authorized by statute.】

## § 6322. Leave for jury or witness service; official duty status for certain witness service

(a) *An employee as defined by section 2105 of this title (except an individual whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives) or an individual employed by the government of the District of Columbia is entitled to leave, without loss of, or reduction in, pay, leave to which he otherwise is entitled, credit for time or service, or performance of efficiency rating, during a period of absence with respect to which he is summoned, in connection with a judicial proceeding, by a court or authority responsible for the conduct of that proceeding, to serve—*

(1) *as a juror; or*

(2) *as a witness on behalf of a party other than the United States, the District of Columbia, or a private party; in the District of Columbia, a State, territory, or possession of the United States including the Commonwealth of Puerto Rico, the Canal Zone, or the Trust Territory of the Pacific Islands. For the purpose of this subsection, "judicial proceeding" means any action, suit, or other judicial proceeding, including any condemnation, preliminary, informational, or other proceeding of a judicial nature, but does not include an administrative proceeding.*

(b) *An employee as defined by section 2105 of this title (except an individual whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives) or an individual employed by the government of the District of Columbia is performing official duty during the period with respect to which he is summoned, or assigned by his agency, to—*

*(1) testify or produce official records on behalf of the United States or the District of Columbia; or*

*(2) testify in his official capacity or produce official records on behalf of a party other than the United States or the District of Columbia.*

(c) *The Civil Service Commission may prescribe regulations for the administration of this section.*

## SECTION 1823 OF TITLE 28, UNITED STATES CODE

### Chapter 119.—EVIDENCE; WITNESSES

Sec.

1821. Per diem and mileage generally; subsistence.

1822. Competency of interested persons; share of penalties payable.

**[1823. United States officers and employees.]**

1824. Mileage fees under summons as both witness and juror.

1825. Payment of fees.

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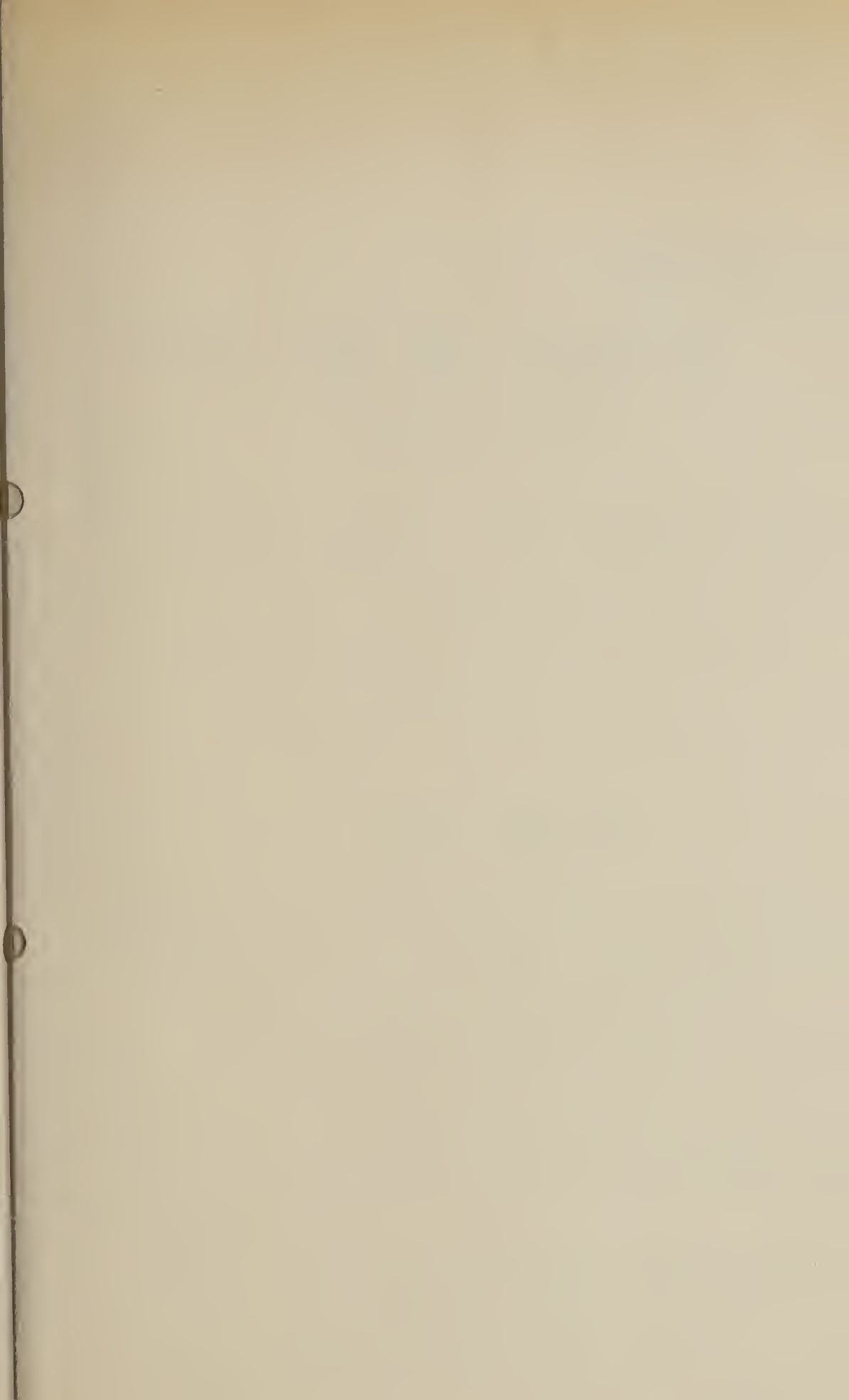
#### **[§ 1823. United States officers and employees**

**[**(a) Any officer or employee of the United States or any agency thereof, summoned as a witness on behalf of the United States, shall be paid his necessary expenses incident to travel by common carrier, or, if travel is made by privately owned automobile, at a rate not to exceed that prescribed in section 4 of the Travel Expense Act of 1949, together with a per diem allowance in lieu of subsistence not to exceed the rates of per diem as described in, or established pursuant to, section 3 thereof under regulations prescribed by the Attorney General. Such expenses for appearing as a witness in any case involving the activity in connection with which such person is employed shall be payable from the appropriation otherwise available for travel expenses of such officer or employee under proper certification by a certifying officer of the department or agency concerned. In any case which does not involve its activity, any department or agency may advance or pay the travel expenses and per diem allowance of its officer or employee, summoned as a witness on behalf of the United States, and later obtain reimbursement from the department or agency properly chargeable with such witness' travel expenses.

**[**(b) Employees of the United States or an agency thereof in active service called as witnesses on behalf of the District of Columbia in any judicial proceeding in which the government of the District of Columbia is a party, and employees of such government called as witnesses on behalf of the United States or the District of Columbia in any judicial proceeding in which the United States or the government of the District of Columbia is a party, shall not be paid witness fees, but the period of such service shall be without loss of salary or compensation and shall not be deducted from any authorized leave of absence with pay.

[(c) No officer of any court of the United States located in any State, Territory or the District of Columbia shall be entitled to witness fees for attendance before any court or commissioner where he is officiating.]









Calendar No. 1379

91<sup>ST</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 12979

[Report No. 91-1371]

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IN THE SENATE OF THE UNITED STATES

SEPTEMBER 16, 1969

Read twice and referred to the Committee on the Judiciary

NOVEMBER 24, 1970

Reported by Mr. TYDINGS, with amendments

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## AN ACT

To amend title 5, United States Code, to revise, clarify, and extend the provisions relating to court leave for employees of the United States and the District of Columbia.

1 *Be it enacted by the Senate and House of Representa-*

2 *tives of the United States of America in Congress assembled,*

3 That (a) section 6322 of title 5, United States Code, is

4 amended to read:

5 “§ 6322. Leave for jury or witness service; official duty

6 status for certain witness service

7 “(a) An employee as defined by section 2105 of this

8 title (*except an individual whose pay is disbursed by the*

9 *Secretary of the Senate or the Clerk of the House of*

10 *Representatives*) or an individual employed by the govern-

1 ment of the District of Columbia is entitled to leave, with-  
2 out loss of, or reduction in, pay, leave to which he otherwise  
3 is entitled, credit for time or service, or performance of  
4 efficiency rating, during a period of absence with respect  
5 to which he is summoned, in conjunction with a judicial  
6 proceeding, by a court or authority responsible for the  
7 conduct of that proceeding, to serve—

8 “(1) as a juror; or

9 “(2) as a witness on behalf of a party other than  
10 the United States, the District of Columbia, or a pri-  
11 vate party;

12 in the District of Columbia, a State, territory, or possession  
13 of the United States including the Commonwealth of Puerto  
14 Rico, the Canal Zone, or the Trust Territory of the Pacific  
15 Islands. For the purpose of this subsection, ‘judicial proceed-  
16 ing’ means any action, suit, or other judicial proceeding, in-  
17 cluding any condemnation, preliminary, informational, or  
18 other proceeding of a judicial nature, but does not include an  
19 administrative proceeding.

20 “(b) An employee as defined by section 2105 of this  
21 title (*except an individual whose pay is disbursed by the*  
22 *Secretary of the Senate or the Clerk of the House of*  
23 *Representatives*) or an individual employed by the govern-  
24 ment of the District of Columbia is performing official duty

1 during the period with respect to which he is summoned,  
 2 or assigned by his agency, to—

3 “(1) testify or produce official records on behalf of  
 4 the United States or the District of Columbia; or

5 “(2) testify in his official capacity or produce offi-  
 6 cial records on behalf of a party other than the United  
 7 States or the District of Columbia.

8 “(c) The Civil Service Commission may prescribe reg-  
 9 ulations for the administration of this section.”

10 (b) Item 6322 in the analysis of chapter 63 of title 5,  
 11 United States Code, is amended to read:

“6322. Leave for jury or witness service; official duty status for certain  
 witness service.”.

12 SEC. 2. (a) Section 5515 of title 5, United States Code,  
 13 is amended to read:

14 “§ 5515. Crediting amounts received for jury or witness  
 15 service

16 “An amount received by an employee as defined by  
 17 section 2105 of this title (*except an individual whose pay is*  
 18 *disbursed by the Secretary of the Senate or the Clerk of the*  
 19 *House of Representatives*) or an individual employed by the  
 20 government of the District of Columbia for service as a juror  
 21 or witness during a period for which he is entitled to leave  
 22 under section 6322 (a) of this title, or is performing official  
 23 duty under section 6322 (b) of this title, shall be credited

1 against pay payable to him by the United States or the  
2 District of Columbia with respect to that period.”

3 (b) Item 5515 in the analysis of chapter 55 of title 5,  
4 United States Code, is amended to read:

“5515. Crediting amounts received for jury or witness service.”.

5 SEC. 3. (a) Section 5537 of title 5, United States Code,  
6 is amended to read:

7 “§ 5537. Fees for jury and witness service

8 “(a) An employee as defined by section 2105 of this  
9 title (*except an individual whose pay is disbursed by the*  
10 *Secretary of the Senate or the Clerk of the House of Rep-*  
11 *resentatives*) or an individual employed by the government  
12 of the District of Columbia may not receive fees for service—

13 “(1) as a juror in a court of the United States or  
14 the District of Columbia; or

15 “(2) as a witness on behalf of the United States  
16 or the District of Columbia.

17 “(b) An official of a court of the United States or the  
18 District of Columbia may not receive witness fees for at-  
19 tendance before a court, commissioner, or magistrate where  
20 he is officiating.

21 “(c) For the purpose of this section, ‘court of the  
22 United States’ has the meaning given it by section 451 of  
23 title 28 and includes the United States District Court for



1 the District of the Canal Zone, the District Court of Guam,  
2 and the District Court of the Virgin Islands.”

3 (b) Item 5537 in the analysis of chapter 55 of title 5,  
4 United States Code, is amended to read:

“5537. Fees for jury and witness service.”.

5 SEC. 4. (a) Chapter 57 of title 5, United States Code,  
6 is amended by inserting at the end thereof the following new  
7 subchapter:

8 “SUBCHAPTER IV—MISCELLANEOUS PROVISIONS

9 “§ 5751. Travel expenses of witnesses

10 “(a) Under such regulations as the Attorney General  
11 may prescribe, an employee as defined by section 2105 of  
12 this title (*except an individual whose pay is disbursed by the*  
13 *Secretary of the Senate or the Clerk of the House of Repre-*  
14 *sentatives*) summoned, or assigned by his agency, to testify or  
15 produce official records on behalf of the United States is  
16 entitled to travel expenses under subchapter I of this chapter.  
17 If the case involves the activity in connection with which  
18 he is employed, the travel expenses are paid from the appro-  
19 priation otherwise available for travel expenses of the em-  
20 ployee under proper certification by a certifying official of  
21 the agency concerned. If the case does not involve its ac-  
22 tivity, the employing agency may advance or pay the travel  
23 expenses of the employee, and later obtain reimbursement



1 from the agency properly chargeable with the travel ex-  
 2 penses.

3 “(b) An employee as defined by section 2105 of this  
 4 title (*except an individual whose pay is disbursed by the*  
 5 *Secretary of the Senate or the Clerk of the House of Repre-*  
 6 *sentatives*) summoned, or assigned by his agency, to testify  
 7 in his official capacity or produce official records, on behalf of  
 8 a party other than the United States, is entitled to travel  
 9 expenses under subchapter I of this chapter, except to the  
 10 extent that travel expenses are paid to the employee for his  
 11 appearance by the court, authority, or party which caused  
 12 him to be summoned.”

13 (b) The analysis of chapter 57 of title 5, United States  
 14 Code, is amended by inserting at the end thereof:

“SUBCHAPTER IV—MISCELLANEOUS PROVISIONS

“5751. Travel expenses of witnesses.”.

15 SEC. 5. (a) Section 1823 of title 28, United States Code,  
 16 is repealed.

17 (b) The analysis of chapter 119 of title 28, United  
 18 States Code, is amended by striking out item 1823.

19 SEC. 6. (a) *For purposes of this section—*

20 (1) “employee” means *any individual whose pay is*  
 21 *disbursed by the Secretary of the Senate or the Clerk of*  
 22 *the House of Representatives; and*

23 (2) “court of the United States” has the meaning

1        *given it by section 451 of title 28, United States Code.*  
2        *and includes the United States District Court for the*  
3        *District of the Canal Zone, the District Court of Guam,*  
4        *and the District Court of the Virgin Islands.*

5        *(b) The pay of an employee shall not be reduced during*  
6        *a period of absence with respect to which the employee is*  
7        *summoned (and permitted to respond to such summons by*  
8        *the appropriate authority of the House of the Congress dis-*  
9        *bursing his pay), in connection with a judicial proceeding by*  
10       *a court or authority responsible for the conduct of that pro-*  
11       *ceeding, to serve—*

12                *(1) as a juror; or*

13                *(2) as a witness on behalf of a party other than*  
14        *the United States, the District of Columbia, or a private*  
15        *party;*

16        *in the District of Columbia, a State, territory, or possession*  
17        *of the United States including the Commonwealth of Puerto*  
18        *Rico, the Canal Zone, or the Trust Territory of the Pacific*  
19        *Islands. For purposes of this subsection, “judicial proceed-*  
20        *ing” means any action, suit, or other judicial proceeding,*  
21        *including any condemnation, preliminary, informational, or*  
22        *other proceeding of a judicial nature, but does not include*  
23        *an administrative proceeding.*

24        *(c) An employee is performing official duty during the*  
25        *period with respect to which he is summoned (and is au-*

1 *thorized to respond to such summons by the House of the*  
2 *Congress disbursing his pay), or is assigned by such House,*  
3 *to—*

4           *(1) testify or produce official records on behalf of*  
5 *the United States or the District of Columbia; or*

6           *(2) testify in his official capacity or produce official*  
7 *records on behalf of a party other than the United States*  
8 *or the District of Columbia.*

9       *(d)(1) An employee may not receive fees for service—*

10           *(A) as juror in a court of the United States or the*  
11 *District of Columbia; or*

12           *(B) as a witness on behalf of the United States or*  
13 *the District of Columbia.*

14       *(2) If an employee receives an amount (other than*  
15 *travel expenses) for service as a juror or witness during a*  
16 *period in which his pay may not be reduced under subsection*  
17 *(b) of this section, or for which he is performing official*  
18 *duty under subsection (c) of this section, the employee shall*  
19 *remit such amount to the officer who disburses the pay of the*  
20 *employee, which amount shall be covered into the general*  
21 *fund of the Treasury as miscellaneous receipts.*

22       *(e)(1) An employee summoned (and authorized to*  
23 *respond to such summons by the House of the Congress dis-*  
24 *bursing his pay), or assigned by such House, to testify or*  
25 *produce official records on behalf of the United States is en-*

1 titled to travel expenses. If the case involves an activity in  
2 connection with which he is employed, the travel expenses  
3 shall be paid from funds otherwise available for the payment  
4 of travel expenses of such House in accordance with travel  
5 regulations of that House. If the case does not involve such  
6 an activity, the department, agency, or independent estab-  
7 lishment of the United States on whose behalf he is so testi-  
8 fying or producing records shall pay to the employee his  
9 travel expenses out of appropriations otherwise available,  
10 and in accordance with regulation applicable, to that depart-  
11 ment, agency, or independent establishment for the payment  
12 of travel expenses.

13 (2) An employee summoned (and permitted to respond  
14 to such summons by the House of the Congress disbursing  
15 his pay), or assigned by such House, to testify in his official  
16 capacity or produce official records on behalf of a party other  
17 than the United States, is entitled to travel expenses, unless  
18 any travel expenses are paid to the employee for his ap-  
19 pearance by the court, authority, or party which caused him  
20 to be summoned.

21 (f) The Committee on Rules and Administration of the  
22 Senate and the Committee on House Administration of the  
23 House of Representatives are authorized to prescribe, for em-  
24 ployees of their respective Houses, such rules and regula-



1 tions as may be necessary to carry out the provisions of  
2 this section.

3 (g) No provision of this section shall be construed to  
4 confer the consent of either House of the Congress to the  
5 production of official records of that House or to testimony  
6 by an employee of that House concerning activities related  
7 to his employment.

Passed the House of Representatives September 15,  
1969.

Attest:

W. PAT JENNINGS,

Clerk.



Calendar No. 1379

91<sup>ST</sup> CONGRESS  
2<sup>D</sup> SESSION

**H. R. 12979**

[Report No. 91-1371]

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## **AN ACT**

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To amend title 5, United States Code, to revise, clarify, and extend the provisions relating to court leave for employees of the United States and the District of Columbia.

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SEPTEMBER 16, 1969

Read twice and referred to the Committee on the  
Judiciary

NOVEMBER 24, 1970

Reported with amendments







Dec. 1, 1970

SENATE

7. AGRICULTURAL PRICES. Sen. Talmadge cited a recent USDA release on agricultural prices as proof that the "Nation's farmers are suffering from depression conditions". p. S19105
8. TAOS INDIANS. Began debate on H.R. 471, to add certain lands to the Carson National Forest in order to safeguard the interests and welfare of the Pueblo de Taos Indians. pp. S19155-167
9. BILLS PASSED.  
H.R. 14714, to encourage travel in the U.S. through facilities of the National Park Service. This bill now goes to the President. pp. S19069-70  
H.R. 12979, with amendment, to grant court leave with pay to employees of the U.S. and the District of Columbia when called as witnesses or jurors in judicial proceedings. pp. S19068-9  
S. Res. 485, authorizing the printing as a Senate document of the report "A University View of the Forest Service". p. S19072  
S. 4459, with amendment, establishing a Council of Consumer Advisers and an independent Consumer Protection Agency. pp. S19123-31, S19133-55
10. NATIONAL PARK. Committee on Interior and Insular Affairs voted to report (but did not actually report) S. 4, amended, to establish the Big Thicket National Park in Texas. p. D1208  
Sen. Yarborough included petitions and a partial listing of signatories in support of the proposed Big Thicket National Park. p. S19123
11. FOOD STAMPS. Sen. McGovern urged the conferees on the Agricultural Appropriation bill to adopt the Senate figure of \$1.75 billion for the food stamp program. pp. S19104-5  
Sen. Fannin spoke in support of a recent bill to prohibit distribution of food stamps to striking workers. pp. S19122-3
12. FOREIGN TRADE. Sen. Mondale placed in the Record editorials discussing the threat to U. S. agricultural exports posed by the pending Trade bill. pp. S19107-8
13. FARMWORKERS. Sen. Mondale again called attention to the plight of the migrant farmworker and inserted the death certificate of a worker who had died from heart failure due to malnutrition. p. S19110

EXTENSION OF REMARKS

14. FARMERS. Rep. Zwach again cited Frank LeRoux's "1961 to 1970, The Farmer's Worst Nine Years" in discussing "the tragic financial situation that exists in U.S. agriculture". p. E9975

15. LANDS. Rep. Dingell called attention to an editorial "The Gut Issues on Public Lands" which urges immediate action on 7 recommendations in the report of the Public Land Law Review Commission. pp. E9982-3

BILLS INTRODUCED

16. NAL. S. 4548, by Sen. Dole, to authorize the Secretary of Agriculture to receive gifts for the benefit of the National Agricultural Library; to the Committee on Agriculture and Forestry. Remarks of author, p. S19078.
17. LOANS. H.R. 19883, by Rep. Broyhill of North Carolina, to amend the Consolidated Farmers Home Administration Act of 1961 to authorize loans for rural community centers and fire and rescue facilities, and for other purposes; to the Committee on Agriculture.
18. EGGS. H.R. 19888, by Rep. Stubblefield, to provide for the inspection of certain egg products by the U.S. Department of Agriculture; restriction on the disposition of certain qualities of eggs; uniformity of standards for eggs in interstate or foreign commerce; and cooperation with State agencies in administration of this act; and for other purposes; to the Committee on Agriculture.
19. FOOD STAMP. H.R. 19889, by Representatives Foley and Quie, to amend the Food Stamp Act of 1964, as amended; to the Committee on Agriculture.

BILLS APPROVED BY THE PRESIDENT

20. H.R. 18546, Agricultural Act of 1970. Approved November 30, 1970 (Public Law 91-524).

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COMMITTEE HEARINGS ANNOUNCEMENTS DECEMBER 1:

Agricultural appropriations, conferees (exec.)  
S. Agriculture and Forestry (exec.)  
Social security amendments, S. Finance (exec.)  
Egg Products Inspection, H. Agriculture (exec.)

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United States  
of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 91<sup>st</sup> CONGRESS, SECOND SESSION

Vol. 116

WASHINGTON, TUESDAY, DECEMBER 1, 1970

No. 191

## Senate

The Senate met at 10 a.m. and was called to order by Hon. JAMES B. ALLEN, a Senator from the State of Alabama.

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O Thou who hast been our dwelling place in all generations be Thou in us and we in Thee, for this foundation is sure and strong. Amid all that is transient and tentative anchor us to eternal verities. Let truth prevail over falsehood, reason over emotion, sound judgment over expediency, grace over coercion. Grant to us here the serenity which brings poise, the peace which brings power, the prayerfulness which brings divine guidance, the courage that never turns back, the love that abides all time. Through the diversity of talents and variety of ideas, bind us together in the unity of the spirit to build a nation strong in the Lord and in the power of His might. Help us Lord in this season of holy expectation to welcome the divine in every area of life and so to live and act as to make known the divine presence among the nations.

In the Redeemer's name. Amen.

### DESIGNATION OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. RUSSELL).

The assistant legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, D.C., December 1, 1970.

To the Senate:

Being temporarily absent from the Senate, I appoint Hon. JAMES B. ALLEN, a Senator from the State of Alabama, to perform the duties of the Chair during my absence.

RICHARD B. RUSSELL,  
President pro tempore.

Mr. ALLEN thereupon took the chair as Acting President pro tempore.

### THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, November 30, 1970, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

### TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, at the conclusion of the remarks of the distinguished Senator from New York (Mr. JAVITS) today, there be a period for the transaction of routine morning business with statements therein limited to 3 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

### THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of measures on the calendar to which there is no objection, from Calendar No. 1377 through Calendar No. 1395.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

### PAYMENT OF TRANSCRIPT FEES

The bill (H.R. 4302) to amend title 28 of the United States Code, section 753, to authorize payment by the United States of fees charged by court reporters for furnishing certain transcripts in proceedings under the Criminal Justice Act, was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91-1368), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

#### STATEMENT

This measure has been recommended by the Judicial Conference of the United States as a means of eliminating a redundant and unnecessary step in the obtaining of transcripts without charge by defendants for whom counsel is appointed pursuant to the Criminal Justice Act. Under the present system, such defendants must establish their inability to pay on two occasions: First, when they originally have counsel assigned under the Criminal Justice Act; and second, when they apply for the transcript. The bill would eliminate the second step, which is obviously unnecessary.

As pointed out by the Department of Justice, section 753(f) of title 28 of the United States Code authorizes court reporters to collect fees for transcripts requested by parties. In its present form, section 753(f) au-

thorizes the United States to pay transcript fees only for persons who are allowed to appear in forma pauperis. H.R. 4302 is designed to permit a defendant who has qualified for assistance under the provisions of the Criminal Justice Act of 1964, 18 U.S.C. 3006A, to obtain a transcript under the provisions of 28 U.S.C. 753(f) without the necessity of a further showing to meet the current indigency requirements. This would accord with the general intent underlying the Criminal Justice Act. Also, since defendants qualifying under the Criminal Justice Act have little practical difficulty in establishing indigency for the purpose of securing a transcript under 28 U.S.C. 753(f), the legislation would eliminate what is in effect only a duplicative showing.

The bill authorizes no additional expenditures and will generate no increases in cost.

The committee believes that the bill is meritorious and recommends it favorably.

### SUMMONSES FOR JURY DUTY

The bill (H.R. 9677) to amend section 1866 of title 28, United States Code, prescribing the manner in which summonses for jury duty may be served, was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91-1369), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

#### STATEMENT

The purpose of H.R. 9677 is to eliminate needless effort in the serving of summonses for jury duty by authorizing the clerk or the jury commission, or their authorized deputies, to mail summonses for jury duty.

This proposal has been recommended by the Judicial Conference of the United States as a means of increasing the efficiency of our court system. Under the present system, when summonses for jury duty are served by mail only U.S. marshals are allowed to do the actual mailing of the summonses. As a result, bags of mail must be carried from the clerk to the marshal who in turn must hand the mail over to the post office. This method is obviously wasteful, uneconomical, and serves no useful purpose.

H.R. 9677 would eliminate the need for this unnecessary step and would permit the summonses to be mailed directly by the clerk or the jury commission, or their duly designated deputies.

Reprinted here and made a part of this report are a communication from the Director of the Administrative Office of the U.S.



Courts requesting this legislation and the report of the Department of Justice.

# COURT LEAVE FOR EMPLOYEES OF THE UNITED STATES AND THE DISTRICT OF COLUMBIA

The Senate proceeded to consider the bill (H.R. 12979) to amend title 5, United States Code, to revise, clarify, and extend the provisions relating to court leave for employees of the United States and the District of Columbia, which had been reported from the Committee on the Judiciary with amendments, on page 1, line 8, after the word "title", insert "(except an individual whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives)"; on page 2, line 21, after the word "title", insert "(except an individual whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives)"; on page 3, in line 17, after the word "title", insert "(except an individual whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives)"; on page 4, line 9, after the word "title", insert "(except an individual whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives)"; on page 5, line 12, after the word "title", insert "(except an individual whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives)"; on page 6, line 4, after the word "title", insert "(except an individual whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives)"; after line 18, insert a new section, as follows:

Sec. 6. (a) For purposes of this section—

(1) "employee" means any individual whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives; and

(2) "court of the United States" has the meaning given it by section 451 of title 28, United States Code and includes the United States District Court for the District of the Canal Zone, the District Court of Guam, and the District Court of the Virgin Islands.

(b) The pay of an employee shall not be reduced during a period of absence with respect to which the employee is summoned (and permitted to respond to such summons by the appropriate authority of the House of the Congress disbursing his pay), in connection with a judicial proceeding by a court or authority responsible for the conduct of that proceeding, to serve—

(1) as a juror; or

(2) as a witness on behalf of a party other than the United States, the District of Columbia, or a private party; in the District of Columbia, a State, territory, or possession of the United States including the Commonwealth of Puerto Rico, the Canal Zone, or the Trust Territory of the Pacific Islands. For purposes of this subsection, "judicial proceeding" means any action, suit, or other judicial proceeding, including any condemnation, preliminary, informational, or other proceeding of a judicial nature, but does not include an administrative proceeding.

(c) An employee is performing official duty during the period with respect to which he is summoned (and is authorized to respond to such summons by the House of the Congress disbursing his pay), or is assigned by such House, to—

(1) testify or produce official records on behalf of the United States or the District of Columbia; or

(2) testify in his official capacity or produce official records on behalf of a party other than the United States or the District of Columbia.

(d) (1) An employee may not receive fees for service—

(A) as juror in a court of the United States or the District of Columbia; or

(B) as a witness on behalf of the United States or the District of Columbia.

(2) If an employee receives an amount (other than travel expenses) for service as a juror or witness during a period in which his pay may not be reduced under subsection (b) of this section, or for which he is performing official duty under subsection (c) of this section, the employee shall remit such amount to the officer who disburses the pay of the employee, which amount shall be covered into the general fund of the Treasury as miscellaneous receipts.

(e) (1) An employee summoned (and authorized to respond to such summons by the House of the Congress disbursing his pay), or assigned by such House, to testify or produce official records on behalf of the United States is entitled to travel expenses. If the case involves an activity in connection with which he is employed, the travel expenses shall be paid from funds otherwise available for the payment of travel expenses of such House in accordance with travel regulations of that House. If the case does not involve such an activity, the department, agency, or independent establishment of the United States on whose behalf he is so testifying or producing records shall pay to the employee his travel expenses out of appropriations otherwise available, and in accordance with regulation applicable, to that department, agency, or independent establishment for the payment of travel expenses.

(2) An employee summoned (and permitted to respond to such summons by the House of the Congress disbursing his pay), or assigned by such House, to testify in his official capacity or produce official records on behalf of a party other than the United States, is entitled to travel expenses, unless any travel expenses are paid to the employee for his appearance by the court, authority, or party which caused him to be summoned.

(f) The Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives are authorized to prescribe, for employees of their respective Houses, such rules and regulations as may be necessary to carry out the provisions of this section.

(g) No provision of this section shall be construed to confer the consent of either House of the Congress to the production of official records of that House or to testimony by an employee of that House concerning activities related to his employment.

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91-1371), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

## PURPOSE OF AMENDMENTS

Although the intent of H.R. 12979 is to protect all Federal employees, the major sections of the bill, as passed by the House of Representatives, are not germane to legis-

lative employees. For instance, the first two sections of the bill, which deal with leave for jury or witness service, are premised upon a formal leave system. However, there is no formal leave system for individuals whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives. The act is amended to remove these employees from the misfitting sections and to provide appropriate coverage in section 6, a new section. Section 6 protects Senate and House employees' pay, rather than leave, from reduction when they are called for jury or witness service.

Another problem is found in section 4 of the bill, which relates to the payment of travel expenses of employees of the United States when summoned as witnesses. This section provides that the employees are entitled to travel expenses under subchapter I of chapter 57 of title 5, United States Code. However, these travel provisions do not now apply to legislative employees. Legislative employees of the United States Senate and House of Representatives should not be subject to the travel expense limitation of subchapter I of chapter 57 of title 5, United States Code, or to any of the other limitations that ordinarily would apply only to the employees of the executive branch. The bill is amended to remove legislative employees from section 4 and to cover these employees in section 6.

The provisions of the new section 6 are tailored to the problems of the legislative branch. Ultimate control is left in the hands of the Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives.

The amendments were drafted with the assistance of the Comptroller of the Senate. Moreover, the chairman of the Committee on Post Office and Civil Service of the House of Representatives, the committee that studied the legislation in the House, has indicated in a letter to the chairman that he considers amendments similar to those proposed to be desirable for employees of the House of Representatives.

## PURPOSE

The major purpose of this legislation is to alleviate financial hardship now imposed on employees of the United States and of the District of Columbia resulting from their service as a witness, a juror or an official representative from the agency in which he serves. The hardship is alleviated in the following ways:

By extending existing authority relating to court leave for an employee of the United States or of the District of Columbia to include periods when the employee is appearing as a witness in a judicial proceeding on behalf of a State or local government.

By extending existing authority relating to an official duty status for an employee of the United States or of the District of Columbia when summoned, or assigned by his agency, to testify or produce official records on behalf of the United States or the District of Columbia, to include periods when summoned or assigned by his agency, to testify in his official capacity or to produce official records on behalf of a party other than the United States or the District of Columbia.

By extending existing authority relating to travel expenses for an employee of the United States when summoned, or assigned by his agency, to testify or to produce official records on behalf of the United States, to include situations when summoned, or assigned by his agency, to testify in his official capacity or to produce official records on behalf of a party other than the United States.

## STATEMENT—BACKGROUND

On April 17, 1969, Congressman David N. Henderson introduced H.R. 10247, to extend court leave for employees of the United



States and the District of Columbia to include absences not only for jury service, but also when called as witnesses in certain judicial proceedings on behalf of State and local governments.

The House Subcommittee on Manpower and Civil Service of the Committee on Post Office and Civil Service held public hearings and took testimony from representatives of five major employee organizations and the General Counsel of the Civil Service Commission.

All of the testimony was favorable to the proposed legislation, but it also evidenced a need for clarification and expansion of the coverage. Accordingly, all members of the subcommittee cosponsored a successor bill, H.R. 12979, which was ordered reported unanimously without amendment.

The enactment of this legislation is recommended by the Civil Service Commission. The Commission advised the House Committee on Post Office and Civil Service by letter dated July 31, 1969, that the bill was a good step forward in correcting some longstanding inequities. No opposition to this bill has been registered.

On September 15, 1969, H.R. 12979 passed the House of Representatives. H.R. 12979 as passed by the House, will—

(1) Extend the court leave provisions, now available for an employee of the United States or of the District of Columbia while serving as a juror, to include a period of absence when the employee is summoned to appear in a judicial proceeding as a witness on behalf of a party other than the United States, other than the District of Columbia, or other than a private party, such as a State or a local government;

(2) Provide that duty by an employee of the United States or of the District of Columbia is official duty during periods with respect to which the employee is summoned, or assigned by his agency, to testify or produce official records on behalf of the United States or of the District of Columbia (which, under existing law, is treated as court leave) or testify in his official capacity or produce official records on behalf of any party other than the United States or the District of Columbia;

(3) Require that an amount received by the employee for service as a juror or a witness shall be credited against pay otherwise due the employee; and

(4) Transfer the existing authority relating to travel expenses for an employee of the United States when testifying or producing official records on behalf of the United States, from title 28 of the United States Code, and amplify such provisions so as to authorize the payment of travel expenses to such an employee of the United States when summoned on behalf of a party other than the United States to testify in his official capacity or to produce official records, except to the extent that travel expenses are paid to the employee by such other party.

The court leave provisions (sec. 6322(a)) will apply in connection with judicial proceedings by a court or authority responsible for the conduct of such proceedings in the District of Columbia, a State, territory, or possession of the United States, including the Commonwealth of Puerto Rico, the Canal Zone, or the Trust Territory of the Pacific Islands. The judicial proceedings include any action or suit, including condemnation, preliminary, informational, or other proceeding of a judicial nature, but does not include an administrative proceeding.

The new official duty status provisions (sec. 6322(b)(2)) and the new travel expenses provisions (sec. 5751(b)) are not limited to judicial proceedings but applied to any proceedings with respect to which the employee is summoned, or assigned by his agency, to testify in his official capacity or produce official records.

#### COURT LEAVE

Court leave is authorized under existing law for an employee of the United States or of the District of Columbia for jury duty (5 U.S.C. 6322) or for attending court in a non-official capacity as a witness on behalf of the United States or the government of the District of Columbia (28 U.S.C. 1823).

The court may be a State, Federal, or District of Columbia court, and municipal courts are considered as State courts for purposes of these laws.

When an employee appears as a witness for the Government in a nonofficial capacity, he is carried on court leave and paid his regular salary during the time he is absent as a witness (38 Comp. Gen. 307, 310).

When an employee is called as a court witness in his official capacity, whether on behalf of the Government or a private party, he is in an official duty status and entitled to his regular compensation without regard to entitlement of court leave (38 Comp. Gen. 142).

When an employee's appearance in court as a witness is not on behalf of the United States or the government of the District of Columbia, and not in his official capacity, his absence from duty must be charged as either annual leave or as leave without pay (27 Comp. Gen. 83).

The present restrictions against granting of court leave while serving as a witness on behalf of a State or local government have caused hardships to a number of employees. For example, one Federal employee lost 2 days' work when he was subpoenaed by a State attorney general as a witness to a highway accident. In another instance, a Federal employee was required to take 3 days of annual leave to serve as a witness for a county in a robbery case. In still another case, a Federal employee lost an aggregate of 18 days' annual leave when he was subpoenaed as a State witness in a murder trial. There was also an instance where a Federal employee who, after observing a hit-and-run accident pursued the offender, and was later required to use his annual leave when called as a witness for the State.

There are also a number of employee hardship cases in the noncriminal area wherein individuals are called as witnesses by a governmental body in tax suits, condemnation proceedings, and eminent domain actions.

In accordance with existing law, employees of the United States and of the District of Columbia, when appearing on behalf of State or local governments, are penalized through either loss of pay or annual leave. Since it is to their financial detriment, such employees may be understandably reluctant to step forward as witnesses to criminal acts.

In these days of deep concern over crime and crime control, employees should not be penalized for performing their civic duty. The Federal Government should be leading the way in this area.

The General Counsel of the Civil Service Commission testified that in a 1963 survey, the Bureau of Labor Statistics found that over 60 percent of the industries included in the survey granted court leave to their employees.

This legislation will alleviate the hardship for such employees when they are serving as a witness on behalf of a State or local government.

This legislation also provides (5 U.S.C. 6322(b)) that an employee of the United States or of the District of Columbia "is performing official duty" during a period with respect to which he is summoned, or assigned by his agency, to (1) testify or produce official records on behalf of the United States or the District of Columbia, or (2) testify in his official capacity or produce official records on behalf of a party other than the United States or the District of Columbia.

#### TRAVEL EXPENSES OF GOVERNMENT WITNESS

There are also restrictions on the payment of travel expenses to employees of the United States when summoned as witnesses. Existing law (28 U.S.C. 1823(a)) authorizes payment of travel expenses when employees are summoned as witnesses on behalf of the United States. It does not authorize payment of travel expenses of employees summoned or assigned by their agencies, other than on behalf of the United States, to testify in their official capacity or to produce official records.

The Comptroller General has ruled that, since it is not a function of the Government to furnish witnesses or official records subpoenaed by private litigants, appropriated funds cannot be used to pay the travel expenses of employees of the United States who perform such functions, even though it is clear that the employees perform those functions as a part of their official duties.

The classic example of this inequity is the U.S. Weather Bureau employee who is called upon as a witness, other than on behalf of the United States, to produce official weather records. Under existing law, this employee cannot be paid from appropriated funds for any travel expenses which he might incur.

This legislation transfers the existing authority from title 28 to title 5 and extends the authority to pay travel expenses for witnesses to include cases when the employee is summoned or assigned by his agency to testify in his official capacity or to produce official records on behalf of a party other than the United States.

#### BILL PASSED OVER

The bill, H.R. 17755, an act making appropriations for the Department of Transportation and related agencies for the fiscal year ending June 30, 1971, and for other purposes, was announced.

Mr. MANSFIELD. Over, Mr. President. The ACTING PRESIDENT pro tempore. The bill will be passed over.

#### TRAVEL IN THE UNITED STATES

The bill (H.R. 14714) to amend authority of the Secretary of the Interior under the act of July 19, 1940 (54 Stat. 773), to encourage through the National Park Service travel in the United States, and for other purposes was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91-1373), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

#### PURPOSE OF LEGISLATION

H.R. 14714, amends the authority of the Secretary of the Interior to encourage, through the National Park Service, travel within the United States by increasing the appropriation authorization for this program from the existing \$100,000 ceiling to \$250,000 for fiscal year 1971, and \$750,000 for fiscal year 1972.

#### NEED FOR LEGISLATION

As part of the effort to accommodate the rapidly increasing number of Americans who have the desire to see, experience, and use the natural, recreational, and historical resources administered by Federal, State, and local Government, and the private sector,



it is necessary to increase significantly the scope of travel promotion program of the agency of Government charged with promoting travel within the United States. To do this, however, the authorization of funds for that agency's efforts should be raised beyond the present \$100,000 annual ceiling.

H.R. 14714 would do this by authorizing an appropriation of \$250,000 for fiscal year 1971, and \$750,000 for fiscal 1972.

#### GENERAL STATEMENT

The act of July 19, 1940 (54 Stat. 773), authorizes the Secretary of the Interior, through the National Park Service, to encourage, promote, and develop travel within the United States, its territories and possessions provided that such activities do not compete with the activities of private agencies. The 1940 Travel Act is the existing basis for the travel promotion activities of the National Park Service.

In January 1968, President Johnson's Industry-Government Special Task Force on Travel strongly recommended the National Park Service exercise its general authority under the 1940 act as a means of achieving a truly national domestic travel promotion program. To accomplish this, the Service reprogrammed \$30,000 in fiscal year 1968, and \$100,000 in each of the following 2 fiscal years and established a Division of Tourism to direct the program.

The Secretary of the Interior has assigned leadership and coordination responsibilities for the Department's tourist development to the Assistant Secretary for Fish and Wildlife and Park, and Marine Resources, and has established within the National Park Service an Assistant Director for Travel and Information Service. The National Park Service can be particularly effective in the field of travel promotion. The national parks, monuments, historic sites, and recreation areas serve to "generate" travel and tourism, and this activity inevitably involves adjacent areas, sites, facilities, cities, and other recreation areas. The program has great economic importance to domestic travel and to travel to the United States from foreign countries. Such a program can also contribute understanding and appreciation of our Nation's cultural and natural heritage.

Your committee believes that the existing ceiling of \$100,000 prevents the carrying out of a promotion program of sufficient scope to meet the national needs of today. Within the National Park System alone, there were 16 million visits in 1940, against 140 million in 1967. In 1967, over 112 million visits were recorded on lands administered by other bureaus and offices of the Department of the Interior. The Bureaus of Land Management, Indian Affairs, Outdoor Recreation, Sport Fisheries and Wildlife, and Reclamation, and the Office of Territories are all deeply involved in tourism. According to the Department of Interior, a countrywide travel promotion program reflecting all the Department's interests cannot be effectively developed within the existing ceiling.

Development of a national program requires a professional and expanded approach to marketing and advertising as well as education and information. Full use should be made of modern means of communication: publications, traveling exhibits, films, posters, and the use of radio and television. The National Park Service should cooperate with the U.S. Travel Service and develop materials and programs in multilinguals to encourage and support foreign visitors. Your committee wishes to make clear, however, that the National Park Service program should be restricted to within the United States, and not overlap the overseas activities of the U.S. Travel Service. The National Park Service should consult with the U.S. Travel Service to insure full coordination of the two programs and to avoid duplication of effort. Even on the expanded scale, the projected program

should be only a catalyst, insofar as the private travel sector is concerned and should in no way compete with private agencies.

#### CONCLUSION

In your committee's opinion, enactment of H.R. 14714, would be another progressive step toward a more creative and expanded domestic travel promotion program.

A vital, expanding domestic travel program is in the economic interest of the United States. It will also foster an understanding among our people of the great significance of their national and cultural heritage which is preserved for them in our National Parks System, the programs of the States and local governments, and the efforts of private enterprise.

#### AGENCY COMMENTS

Set forth below are the agency comments received on this bill.

#### BILL PASSED OVER

The bill, H.R. 3571, for the relief of Miloye M. Sokitch, was announced.

Mr. MANSFIELD. Over, Mr. President. The ACTING PRESIDENT pro tempore. The bill will be passed over.

#### CLAIMS OF NONPROFIT ORGANIZATIONS AND INDIVIDUALS

The Senate proceeded to consider the bill (H.R. 2669) to amend section 213(a) of the War Claims Act of 1948 with respect to claims of certain nonprofit organizations and certain claims of individuals which had been reported from the Committee on the Judiciary with an amendment to strike out all after the enacting clause and insert:

That (a) section 213(a) of the War Claims Act of 1948 (50 App. U.S.C. 20171(a)) is amended as follows:

(1) Paragraph (1) is amended to read as follows:

"(1) Payment in full of awards made pursuant to section 202(d)(1) and (2), and thereafter of any award made pursuant to section 202(a) to any claimant (A) certified to the Commission by the Small Business Administration as having been, on the date of loss, damage, or destruction, a small business concern within the meaning now set forth in the Small Business Act, as amended, or (B) determined by the Commission to have been, on the date of loss, damage, or destruction, a nonprofit organization operated exclusively for the promotion of social welfare, religious, charitable, or educational purposes."

(2) Redesignate paragraph (3) as paragraph (4) and, immediately after paragraph (2), insert the following new paragraph:

"(3) Thereafter, payments from time to time on account of the other awards made to individuals and corporations pursuant to section 202 and not compensated in full under paragraph (1) or (2) of this subsection in an amount which shall be the same for each award or in the amount of the award, whichever is less." The total payment pursuant to this paragraph on account of any award shall not exceed \$35,000.

(b) The Foreign Claims Settlement Commission is authorized to recertify to the Secretary of the Treasury each award which has been certified before the date of enactment of this Act pursuant to title II of the War Claims Act of 1948, as added by the Act of October 22, 1962 (76 Stat. 1107), but which as of the date of enactment of this Act has not been paid in full, in such manner as it may determine to be required to give effect to the amendments made by this Act to the same extent and with the same

effect as if such amendments had taken effect on October 22, 1962.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91-1375), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

#### PURPOSE OF AMENDMENT

Section 213(a), as amended, adds a new paragraph (B) to give "non-profit organization, operated exclusively for the promotion of social welfare, religious, charitable or educational purposes," the same priority of payment as was provided for small business concerns as described in paragraph (A) of that section.

The committee amendment also adds a new paragraph (3) to section 213(a) of the War Claims Act of 1948 to give individual claimants and corporate claimants which have not yet been paid in full a next priority of payment from the War Claims Fund up to an amount of \$35,000.

Other technical changes were made only in order to conform the bill with existing law.

#### PURPOSE

The principal purpose of the bill as amended is to alter the existing order of payments under the War Claims Act of 1948. The reported bill provides that the next payments out of the War Claims Fund should be made to nonprofit organizations operated exclusively for the promotion of social welfare, religious, charitable or educational purposes up to the full amount of the unpaid balance of their award. Payments thereafter shall be made on the unpaid balances due to individual and corporate claimants up to a maximum of \$35,000. The last priority would go to individual and corporate claimants whose unpaid balances exceed \$35,000.

All awards have been paid up to an amount of \$10,000 plus 61.3 percent of the unpaid balance. The present bill deals only with the payment of the remainder. No appropriations will be required since all payments are to be made only as funds become available out of the War Claims Fund which consists of the proceeds of German and Japanese assets vested by the United States during World War II.

#### STATEMENT

The War Claims Act of 1948 provided for the payment of a limited category of war claims of American nationals out of a fund comprised of the proceeds of vested German and Japanese assets in the United States. The act provided for payment for the injury, death or detention of certain employees of contractors with the United States, payments to American civilian internees and prisoners of war, as well as for the payment in full of claims filed by any religious organizations functioning in the Philippine Islands and affiliated with a religious organization in the United States. The religious organizations in the Philippines were compensated in full for the damage sustained as a consequence of the war to their schools, hospitals and other property connected with their educational, medical, or welfare work.

In 1962 legislation was enacted establishing a number of other categories of claims to be paid out in full. Title of the 1962 law established four preferential categories which would receive payment in full. These







# **DIGEST** of Congressional Proceedings

## OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE  
(FOR INFORMATION ONLY;  
NOT TO BE QUOTED OR CITED)

For actions of December 9, 1970  
91st-2nd; No. 197

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HIGHLIGHTS: Senate passed rivers, harbors, and flood control bill with amendment.  
Senate agreed to House amendment to plant variety protection bill.  
Conferees filed report on federal pay bill.  
Committees reported supplemental appropriations bill & rule for its consideration.  
House passed bill increasing certain loans limitations.

HOUSE

1. BILLS REPORTED.

Conferees reported H.R. 13000, to implement the Federal employee pay comparability system (H. Rept. 91-1685). pp. H11351-7, H11473

Committee on Appropriations reported H.R. 19928, making supplemental appropriations for FY 1971 (H. Rept. 91-1688). H. Res. 1303, a rule waiving points of order against the bill and the 3-day rule, was granted by the Rules Committee. p. H11473

Conferees reported S. 3867, the Employment and Manpower Act, (H. Rept. 91-1713) pp. H11403-24; H11473

2. FLOOR ACTION.

Passed by a voice vote H.R. 11547, increasing the loan limitation on certain loans. Agreed to the Committee amendment and to an amendment authorizing loans to veterans of the Vietnam era. pp. H11427-33

Disagreed to Senate amendments to H.R. 19590, FY 71 Department of Defense appropriations. Conferees appointed. p. H11351

Concurred in certain amendments to S. 368, authorizing the disposition of geothermal steam and related geothermal resources. The bill is now returned to the Senate for further action. pp. H11424-7

Passed H.R. 19911, amending the Foreign Assistance Act of 1961, with amendment. pp. H11376-402

Agreed to the Senate amendments to H.R. 12979, regarding court leave for employees of the Federal Government and the District of Columbia. This bill now goes to the President. pp. H11353-8

3. COMMITTEE ACTION.

Committee on Government Operations voted to report (but did not actually report) the following reports: "The Rural Electrification Administration and the Hoosier Power System in Southern Indiana" and "Protecting America's Estuaries -- the Potomac". pp. D1253-4

Committee on Ways and Means voted to report (but did not actually report) the following bills:

H.R. 19242, with amendment, extending the application of section 278 of the Internal Revenue Code of 1954 from citrus groves to almond groves; and

S. 2984, to permit certain Federal employment to be counted toward retirement. p. D1255

SENATE

4. RIVERS, HARBORS, AND FLOOD CONTROL. Passed H.R. 19877, omnibus rivers and harbors and flood control authorization bill, substituting the language of S. 4572, and with further amendments; insisted on its amendments and requested conference with the House. pp. S19814-30; S19832-43



istrative action, but are fixed by House resolutions, in some cases, or by the directive issued by the Speaker of the House on June 11, 1968 (2 U.S.C. 60a, note), which has the force and effect of law under section 212 of the Federal Salary Act of 1967 (Public Law 90-206).

Finally, the provisions of section 5 do not apply to those employees of the House of Representatives whose specific rate of pay is fixed by House resolution, such as minority floor assistants, under H. Res. 502, August 6, 1969, reporters of debates, under H. Res. 1055, October 19, 1966 and H. Res. 995, October 10, 1968; and reporters to committees, under H. Res. 533, June 8, 1956, H. Res. 335, August 18, 1959, and H. Res. 995, October 10, 1968.

#### Postal employee fringe benefits House Bill

Section 4 of the House bill revises provisions of law relating to automatic step advancements for postal employees to permit the employees to reach the top pay step in 8 years instead of the present 21 years.

Section 5 of the House bill provides for a two-step within grade adjustment for postal employees in levels 1 through 11, effective October 1, 1969, and authorizes employees in levels 12 or above to receive a step increase on or after July 1, 1970.

#### Conference Substitute

The conference substitute does not include comparable provisions as such matters are now covered by the provisions of the Postal Reorganization Act, Public Law 91-375, approved August 12, 1970.

#### Miscellaneous Fringe Benefits

##### Premium pay

Section 6 of the House bill amends section 5545(c)(2) of title 5, United States Code, to authorize premium pay for certain employees for Sunday, night, holiday, and overtime work. This provision applies primarily to border patrolmen, Deputy U.S. Marshals, Customs and Internal Revenue personnel, and the Federal Bureau of Investigation.

The conference substitute does not include a comparable provision as similar provisions were included under section 8, Public Law 91-231.

#### Allowances at remote worksites

Section 7 of the House bill amends section 5942 of title 5, United States Code, to authorize an allowance, not to exceed \$10 per day, at remote worksites in order to defray expenses of civilian employees assigned to duty at remote worksites.

Section 6 of the conference substitute includes comparable provisions, but requires that such expenses (including hardship and inconvenience) be above expenses normally encountered in metropolitan commuting.

#### Allowances for Floating Plant Operations

Section 8 of the House bill adds a new section 5947 to title 5, United States Code, authorizing an additional allowance for employees in the Corps of Engineers engaged in floating plant operations when the employees are prevented from boarding the vessel under circumstances beyond their control, such as hazardous weather conditions or while the vessel is in a shipyard for repairs.

Section 7 of the conference substitute contains a comparable provision.

#### Nepotism in Postal Service

The House bill does not contain a provision on this subject.

Section 8 of the conference substitute amends section 410(b)(1) of title 30, United States Code, as enacted by section 2 of the Postal Reorganization Act (Public Law 91-375), to extend the nepotism provisions of section 3110 of title 5, United States Code, to the new United States Postal Service. Section 3110, in general, prohibits a public

official from appointing or advocating the appointment of any individual who is a relative of the public official.

Section 8 also corrects an error in such section 410(b)(1) by striking out the word "not" and inserting the word "no" in lieu thereof.

#### Supergrades

The House bill contains no provision on this subject.

Section 9(a) of the conference substitute amends section 5108(c) of title 5, United States Code, by adding a new paragraph (10) to authorize the Chief Judge of the U.S. Tax Court to place a total of 5 positions in GS-16, 17, and 18, without prior approval of the Civil Service Commission. The Tax Reform Act of 1969 (Public Law 91-172) eliminated the Tax Court of the United States as an independent agency in the executive branch and established a new U.S. Tax Court as a court of record under article I of the Constitution.

Since the Tax Court has been taken out of the executive branch of the Government, the U.S. Civil Service Commission has not allocated any additional supergrades to the Court on the basis that the Court should have its own quota of GS-16, 17, and 18 positions as is the case for several other agencies not under the control of the executive branch, such as the Comptroller General, the Director of the Administrative Office of the U.S. Courts, and the Library of Congress.

Section 9(b) authorizes 20 additional positions in grades GS-16, GS-17 and GS-18 for allocation by the Civil Service Commission among departments and agencies in the Executive Branch in accordance with procedures established and administered by the Commission under section 5108 of title 5, United States Code. The total number of positions now authorized is 2,734 and this section will increase the total to 2,754. By letter dated December 7, 1970, the Chairman of the Civil Service Commission advised that a minimum of 30 new positions is required to meet new critical needs occasioned by new organizations and functions in the executive branch. Specific mention was made of the needs for additional positions in these grades in the Environmental Planning Agency, the Office of Telecommunications Policy, the National Oceanographic and Atmospheric Administration and the Inter-American Social Development Institute.

#### Amendment to the Title

The title of the House bill reads:

"An act to implement the Federal employee pay comparability system, to establish a Federal Employee Salary Commission and a Board of Arbitration, and for other purposes."

The conference substitute, in order to reflect the new provisions of the substitute, amends the title to read:

"An act to amend title 5, United States Code, to authorize the President to adjust the rates for the statutory pay systems, to establish an Advisory Committee on Federal Pay, and for other purposes."

THADDEUS J. DULSKI,  
DAVID N. HENDERSON,  
ARNOLD OLSEN,  
MORRIS UDALL,  
ROBERT J. CORBETT,  
DANIEL E. BUTTON,

*Managers on the Part of the House.*

#### COURT LEAVE FOR EMPLOYEES OF THE UNITED STATES AND THE DISTRICT OF COLUMBIA

Mr. DULSKI. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 12979) to amend title 5, United States Code, to revise, clarify, and extend the provisions relating to court leave for employees of the United States and the District of Co-

lumbia, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, line 8, after "title" insert "(except an individual whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives)".

Page 2, line 19, after "title" insert "(except an individual whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives)".

Page 3, line 12, after "title" insert "(except an individual whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives)".

Page 4, line 3, after "title" insert "(except an individual whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives)".

Page 5, line 5, after "title" insert "(except an individual whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives)".

Page 5, line 18, after "title" insert "(except an individual whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives)".

Page 6, after line 8, insert:

"Sec. 6. (a) For purposes of this section—  
"(1) 'employee' means any individual whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives; and

(2) 'court of the United States' has the meaning given it by section 451 of title 28, United States Code, and includes the United States District Court for the District of the Canal Zone, the District Court of Guam, and the District Court of the Virgin Islands.

"(b) The pay of an employee shall not be reduced during a period of absence with respect to which the employee is summoned (and permitted to respond to such summons by the appropriate authority of the House of the Congress disbursing his pay), in connection with a judicial proceeding by a court or authority responsible for the conduct of that proceeding, to serve—

"(1) as a juror; or

"(2) as a witness on behalf of a party other than the United States, the District of Columbia, or a private party;

in the District of Columbia, a State, territory, or possession of the United States including the Commonwealth of Puerto Rico, the Canal Zone, or the Trust Territory of the Pacific Islands. For purposes of this subsection, "judicial proceeding" means any action, suit, or other judicial proceeding, including any condemnation, preliminary, informational, or other proceeding of a judicial nature, but does not include an administrative proceeding.

"(c) An employee is performing official duty during the period with respect to which he is summoned (and is authorized to respond to such summons by the House of the Congress disbursing his pay), or is assigned by such House, to—

"(1) testify or produce official records on behalf of the United States or the District of Columbia; or

"(2) testify in his official capacity or produce official records on behalf of a party other than the United States or the District of Columbia.

(d) (1) An employee may not receive fees for service—

"(A) as juror in a court of the United States or the District of Columbia; or

"(B) as a witness on behalf of the United States or the District of Columbia.

"(2) If an employee receives an amount (other than travel expenses) for service as a juror or witness during a period in which his pay may not be reduced under subsection (b) of this section, or for which he is performing official duty under subsection (c) of



this section, the employee shall remit such amount to the officer who disburses the pay of the employee, which amount shall be covered into the general fund of the Treasury as miscellaneous receipts.

"(e) (1) An employee summoned (and authorized to respond to such summons by the House of the Congress disbursing his pay), or assigned by such House, to testify or produce official records on behalf of the United States is entitled to travel expenses. If the case involves an activity in connection with which he is employed, the travel expenses shall be paid from funds otherwise available for the payment of travel expenses of such House in accordance with travel regulations of that House. If the case does not involve such an activity, the department, agency, or independent establishment of the United States on whose behalf he is so testifying or producing records shall pay to the employee his travel expenses out of appropriations otherwise available, and in accordance with regulations applicable, to that department, agency, or independent establishment for the payment of travel expenses.

"(2) An employee summoned (and permitted to respond to such summons by the House of the Congress disbursing his pay), or assigned by such House, to testify in his official capacity or produce official records on behalf of a party other than the United States, is entitled to travel expenses, unless any travel expenses are paid to the employee for his appearance by the court, authority, or party which caused him to be summoned.

"(f) The Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives are authorized to prescribe, for employees of their respective Houses, such rules and regulations as may be necessary to carry out the provisions of this section.

"(g) No provisions of this section shall be construed to confer the consent of either House of the Congress to the production of official records of that House or to testimony by an employee of that House concerning activities related to his employment."

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The Senate amendments were concurred in.

A motion to reconsider was laid on the table.

#### PERMISSION FOR COMMITTEE ON PUBLIC WORKS TO FILE CERTAIN REPORTS

Mr. KLUCZYNSKI. Mr. Speaker, I ask unanimous consent that the Committee on Public Works may have until midnight tonight to file certain reports.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

#### FREE "WORK WANTED" ADS IN DETROIT AREA

(Mr. NEDZI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NEDZI. Mr. Speaker, it is an economic truism that when the rest of the country catches a cold Detroit catches pneumonia. We have not quite reached the pneumonia stage, but Detroit which is so dependent on auto sales has been hard hit economically.

A small but nevertheless helpful step has been taken by publisher, Ben Nath-

anson, owner of a chain of 15 weekly newspapers in southeastern Michigan.

His Detroit Area Weekly Newspapers—DAWN—are providing free "Work Wanted" ads for 3 weeks in all editions.

The DAWN newspapers reach the communities of: Warren, Center Line, Mount Clemens, Fraser, Roseville, Clinton Township, St. Clair Shores, East Detroit, Huntington Woods, Southfield, the Grosse Pointes, and Harper Woods.

I commend Mr. Nathanson and his staff upon their initiative and creative community spirit and suggest that similar efforts by other community newspapers may prove rewarding.

#### PROVIDING FOR CONSIDERATION OF H.R. 19911, SUPPLEMENTAL FOREIGN ASSISTANCE AUTHORIZATION

Mr. YOUNG. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1297 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1297

*Resolved*, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 19911) to amend the Foreign Assistance Act of 1961, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from Texas (Mr. YOUNG), is recognized for 1 hour.

Mr. YOUNG. Mr. Speaker, I yield 30 minutes to the gentleman from California (Mr. SMITH), pending which I yield myself such time as I may consume.

(Mr. YOUNG asked and was given permission to revise and extend his remarks.)

Mr. YOUNG. Mr. Speaker, House Resolution 1297 provides an open rule with 2 hours of general debate for consideration of H.R. 19911, the supplemental foreign assistance authorization.

The purpose of H.R. 19911 is to authorize additional appropriations for foreign assistance to \$535 million; \$195 million is for supporting assistance and \$340 million is for military assistance. Supporting assistance is economic assistance which will be used in Cambodia and Vietnam to increase their capability to defend themselves against Communist aggression. Military assistance funds will be applied principally to programs in Cambodia and Korea; a small part will be available for programs in Lebanon, Jordan, and Indonesia. Both supporting assistance and military assistance requests contained in

the bill will also permit the restoration of funds transferred from other country programs to meet the emergency needs resulting from the invasion of Cambodia by the North Vietnamese.

The bill also authorizes an additional appropriation of \$15 million of contingency funds, as well as appropriation of local currency held by the United States, to provide assistance for East Pakistan in the wake of the recent disaster there.

The total authorization in the bill is \$550 million.

(Mr. SMITH of California asked and was given permission to revise and extend his remarks.)

Mr. SMITH of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in view of the fact that we will have the railroad bill and others here before us this afternoon, bills that are extremely important, and it will be a long day, I will not repeat any of the remarks of the gentleman from Texas (Mr. YOUNG), who in my opinion has very adequately explained the rule—House Resolution 1297—that will provide for the consideration of H.R. 19911.

In this authorization the total amount is \$550 million.

Now, there is \$500 million also for Israel for economic and military assistance, but not in this bill, because that was previously provided in the Defense Procurement Act. We will have the last appropriation bill, which will be a supplemental, probably on the floor tomorrow that will include the funds for both of these projects which I have mentioned, with this exception, as I understand, from the testimony which we just heard in the Committee on Rules; the supplemental funds request is at \$490 million rather than \$535 million or \$550 million.

Mr. Speaker, personally I have never voted for any authorization bill or any appropriation bill having to do with foreign aid. I think there are others who are in the same position, but I do not consider this particular legislation foreign aid. It is not. There is a lot of waste, in my opinion, in foreign aid, but this money is absolutely necessary if our Vietnamization policy is going to work out, and if we are going to get our American servicemen home from this long, extended war over there. Unless we proceed to give them some money so they will have guns, ammunition, and equipment, and can take over for themselves, then our efforts will have been in vain.

So in voting for this bill, which I strongly support, I do not consider it as the same type of foreign aid we have had in the past. I believe it is essential to carry on our Vietnamization policy which in my opinion is working quite well.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. SMITH of California. I yield to the gentleman.

Mr. GROSS. Mr. Speaker, I thank the gentleman for yielding, in order that I may mildly compliment the Rules Committee for bringing us one rule that is a completely open rule.

Mr. SMITH of California. I appreciate the gentleman's congratulations, but may









Public Law 91-563  
91st Congress, H. R. 12979  
December 19, 1970

## An Act

84 STAT. 1476

To amend title 5, United States Code, to revise, clarify, and extend the provisions relating to court leave for employees of the United States and the District of Columbia.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That (a) section 6322 of title 5, United States Code, is amended to read:

**“§ 6322. Leave for jury or witness service; official duty status for certain witness service**

U.S. and D.C.  
employees.  
Court leave.  
80 Stat. 522.

“(a) An employee as defined by section 2105 of this title (except an individual whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives) or an individual employed by the government of the District of Columbia is entitled to leave, without loss of, or reduction in, pay, leave to which he otherwise is entitled, credit for time or service, or performance of efficiency rating, during a period of absence with respect to which he is summoned, in connection with a judicial proceeding, by a court or authority responsible for the conduct of that proceeding, to serve—

80 Stat. 409;  
82 Stat. 757.

“(1) as a juror; or

“(2) as a witness on behalf of a party other than the United States, the District of Columbia, or a private party;

in the District of Columbia, a State, territory, or possession of the United States including the Commonwealth of Puerto Rico, the Canal Zone, or the Trust Territory of the Pacific Islands. For the purpose of this subsection, ‘judicial proceeding’ means any action, suit, or other judicial proceeding, including any condemnation, preliminary, informational, or other proceeding of a judicial nature, but does not include an administrative proceeding.

“Judicial  
proceeding.”

“(b) An employee as defined by section 2105 of this title (except an individual whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives) or an individual employed by the government of the District of Columbia is performing official duty during the period with respect to which he is summoned, or assigned by his agency, to—

“(1) testify or produce official records on behalf of the United States or the District of Columbia; or

“(2) testify in his official capacity or produce official records on behalf of a party other than the United States or the District of Columbia.

“(c) The Civil Service Commission may prescribe regulations for the administration of this section.”

(b) Item 6322 in the analysis of chapter 63 of title 5, United States Code, is amended to read:

“6322. Leave for jury or witness service; official duty status for certain witness service.”.

SEC. 2. (a) Section 5515 of title 5, United States Code, is amended to read:

80 Stat. 478.

**“§ 5515. Crediting amounts received for jury or witness service**

“An amount received by an employee as defined by section 2105 of this title (except an individual whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives) or an individual employed by the government of the District of Columbia for service as a juror or witness during a period for which he is entitled to leave under section 6322(a) of this title, or is performing official duty under section 6322(b) of this title, shall be credited against pay

Supra.



payable to him by the United States or the District of Columbia with respect to that period."

(b) Item 5515 in the analysis of chapter 55 of title 5, United States Code, is amended to read:

"5515. Crediting amounts received for jury or witness service."

80 Stat. 484.

SEC. 3. (a) Section 5537 of title 5, United States Code, is amended to read:

**"§ 5537. Fees for jury and witness service**

80 Stat. 409;

82 Stat. 757.

"(a) An employee as defined by section 2105 of this title (except an individual whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives) or an individual employed by the government of the District of Columbia may not receive fees for service—

"(1) as a juror in a court of the United States or the District of Columbia; or

"(2) as a witness on behalf of the United States or the District of Columbia.

"(b) An official of a court of the United States or the District of Columbia may not receive witness fees for attendance before a court, commissioner, or magistrate where he is officiating.

"Court of the  
United States."

62 Stat. 907.

"(c) For the purpose of this section, 'court of the United States' has the meaning given it by section 451 of title 28 and includes the United States District Court for the District of the Canal Zone, the District Court of Guam, and the District Court of the Virgin Islands."

(b) Item 5537 in the analysis of chapter 55 of title 5, United States Code, is amended to read:

"5537. Fees for jury and witness service."

80 Stat. 497.

5 USC 5701-

5742.

SEC. 4. (a) Chapter 57 of title 5, United States Code, is amended by inserting at the end thereof the following new subchapter:

**"SUBCHAPTER IV—MISCELLANEOUS PROVISIONS**

**"§ 5751. Travel expenses of witnesses**

5 USC 5701-  
5708.

"(a) Under such regulations as the Attorney General may prescribe, an employee as defined by section 2105 of this title (except an individual whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives) summoned, or assigned by his agency, to testify or produce official records on behalf of the United States is entitled to travel expenses under subchapter I of this chapter. If the case involves the activity in connection with which he is employed, the travel expenses are paid from the appropriation otherwise available for travel expenses of the employee under proper certification by a certifying official of the agency concerned. If the case does not involve its activity, the employing agency may advance or pay the travel expenses of the employee, and later obtain reimbursement from the agency properly chargeable with the travel expenses.

"(b) An employee as defined by section 2105 of this title (except an individual whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives) summoned, or assigned by his agency, to testify in his official capacity or produce official records, on behalf of a party other than the United States, is entitled to travel expenses under subchapter I of this chapter, except to the extent that travel expenses are paid to the employee for his appearance by the court, authority, or party which caused him to be summoned."

(b) The analysis of chapter 57 of title 5, United States Code, is amended by inserting at the end thereof:

## "SUBCHAPTER IV—MISCELLANEOUS PROVISIONS"

"5751. Travel expenses of witnesses."

SEC. 5. (a) Section 1823 of title 28, United States Code, is repealed.

Repeal.

(b) The analysis of chapter 119 of title 28, United States Code, is amended by striking out item 1823.

62 Stat. 950.

SEC. 6. (a) For purposes of this section—

Definitions.

(1) "employee" means any individual whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives; and

(2) "court of the United States" has the meaning given it by section 451 of title 28, United States Code, and includes the United States District Court for the District of the Canal Zone, the District Court of Guam, and the District Court of the Virgin Islands.

62 Stat. 907.

(b) The pay of an employee shall not be reduced during a period of absence with respect to which the employee is summoned (and permitted to respond to such summons by the appropriate authority of the House of the Congress disbursing his pay), in connection with a judicial proceeding by a court or authority responsible for the conduct of that proceeding, to serve—

Pay.

(1) as a juror; or

(2) as a witness on behalf of a party other than the United States, the District of Columbia, or a private party; in the District of Columbia, a State, territory, or possession of the United States including the Commonwealth of Puerto Rico, the Canal Zone, or the Trust Territory of the Pacific Islands. For purposes of this subsection, "judicial proceeding" means any action, suit, or other judicial proceeding, including any condemnation, preliminary, informational, or other proceeding of a judicial nature, but does not include an administrative proceeding.

"Judicial proceedings."

(c) An employee is performing official duty during the period with respect to which he is summoned (and is authorized to respond to such summons by the House of the Congress disbursing his pay), or is assigned by such House, to—

Official duty.

(1) testify or produce official records on behalf of the United States or the District of Columbia; or

(2) testify in his official capacity or produce official records on behalf of a party other than the United States or the District of Columbia.

(d) (1) An employee may not receive fees for service—

Fees, prohibition.

(A) as juror in a court of the United States or the District of Columbia; or

(B) as a witness on behalf of the United States or the District of Columbia.

(2) If an employee receives an amount (other than travel expenses) for service as a juror or witness during a period in which his pay may not be reduced under subsection (b) of this section, or for which he is performing official duty under subsection (c) of this section, the employee shall remit such amount to the officer who disburses the pay of the employee, which amount shall be covered into the general fund of the Treasury as miscellaneous receipts.

Pay, remittal.

(e) (1) An employee summoned (and authorized to respond to such summons by the House of the Congress disbursing his pay), or assigned by such House, to testify or produce official records on behalf of the United States is entitled to travel expenses. If the case involves an activity in connection with which he is employed, the travel expenses shall be paid from funds otherwise available for the payment of travel

Travel expenses.

expenses of such House in accordance with travel regulations of that House. If the case does not involve such an activity, the department, agency, or independent establishment of the United States on whose behalf he is so testifying or producing records shall pay to the employee his travel expenses out of appropriations otherwise available, and in accordance with regulation applicable, to that department, agency, or independent establishment for the payment of travel expenses.

(2) An employee summoned (and permitted to respond to such summons by the House of the Congress disbursing his pay), or assigned by such House, to testify in his official capacity or produce official records on behalf of a party other than the United States, is entitled to travel expenses, unless any travel expenses are paid to the employee for his appearance by the court, authority, or party which caused him to be summoned.

Rules,  
authorization.

(f) The Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives are authorized to prescribe, for employees of their respective Houses, such rules and regulations as may be necessary to carry out the provisions of this section.

(g) No provision of this section shall be construed to confer the consent of either House of the Congress to the production of official records of that House or to testimony by an employee of that House concerning activities related to his employment.

Approved December 19, 1970.

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LEGISLATIVE HISTORY:

HOUSE REPORT No. 91-414 (Comm. on Post Office and Civil Service).

SENATE REPORT No. 91-1371 (Comm. on the Judiciary).

CONGRESSIONAL RECORD:

Vol. 115 (1969): Sept. 15, considered and passed House.

Vol. 116 (1970): Dec. 1, considered and passed Senate, amended.

Dec. 9, House concurred in Senate amendments.